No. 03-9877

(10)

DEC 20

In The
Supreme Court of the United States

JON B. CUTTER, et al.,

Petitioners,

vs.

REGINALD WILKINSON, et al.,

Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

JOINT APPENDIX
VOLUME I, Pages 1 to 186

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Petition For Certiorari Filed April 19, 2004
Certiorari Granted October 12, 2004

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Cutter v. Wilkinson, 349 F.3d 257 (6th Cir. 2003) .... App. A, 1

U.S. District Court
Southern District of Ohio (Columbus)
CIVIL DOCKET FOR CASE #: 2:98-cv-00275

Miller, et al v. Wilkinson,, et al

Date Filed: 03/12/98

* * *

Filing Date	#	Docket Text
03/14/2001	169	ORDER by Mag. Judge Terence P. Kemp granting motion to intervene by USA [168-1] (cc: all counsel) (no pgs: 3) (sh) (Entered: 03/15/2001)
		* * *
08/27/2001	211	REPORT AND RECOMMENDATION by Mag. Judge Terence P. Kemp that motion for partial dismissal be denied [134-1] NOTICE: Parties have 10 days to file objections (cc: all counsel) (no pgs: 43) (sh) (Entered: 08/28/2001)
		* * *
02/25/2002	245	ORDER by Judge Edmund A. Sargus Jr adopting motion REPORT AND RECOMMENDATION [211-1] (cc: all counsel) (no pgs: 6) (sh) (Entered: 02/26/2002)
		* * *
08/04/2003	282	ORDER by Judge Edmund A. Sargus Jr granting motion to certify 2/25/02 order for immediate appeal [279-1] (cc: all counsel) (no pgs: 3) (sh) (Entered: 08/07/2003)
		* * *

U.S. District Court
Southern District of Ohio (Columbus)
CIVIL DOCKET FOR CASE #: 2:97-cv-00382

Hampton, et al v. Wilkinson, et al

Date Filed: 04/03/97

* * *

Filing Date	#	Docket Text
03/14/2001	91	ORDER by Mag. Judge Mark R. Abel granting motion to intervene by USA (cc: all counsel) ( ) (bw) (Entered: 03/15/2001)
		* * *
08/27/2001	115	REPORT AND RECOMMENDATION by Mag. Judge Terence P. Kemp that motion to dismiss of the resp be be denied in part. [78-1] NOTICE: Parties have 10 days to file objections (cc: all counsel) (no pgs: 43) (bw) (Entered: 08/28/2001)
		* * *
02/25/2002	131	ORDER by Judge Edmund A. Sargus Jr adopting the Report and Recommendation and returning this matter to be docket of Judge Graham for all further proceedings. (cc: all counsel) (no pgs: 6) (bw) (Entered: 02/26/2002)
		* * *
08/04/2003	139	ORDER by Judge Edmund A. Sargus Jr granting motion for order certifying the order of 2-25-02 for immediate appeal [136-1] (cc: all counsel) (no pgs: 3) (sh) (Entered: 08/07/2003)
		* * *

U.S. District Court
Southern District of Ohio (Columbus)
CIVIL DOCKET FOR CASE #: 2:95-cv-00517

Gerhardt, et al v. Lazaroff, et al

Date Filed: 05/23/95

* * *

Filing Date	#	Docket Text
		* * *
03/14/2001	102	ORDER by Mag. Judge Terence P. Kemp granting motion to intervene [101-1] USA (cc: all counsel) (no pgs: 3) (sh) (Entered: 03/15/2001)
		* * *
08/27/2001	125	REPORT AND RECOMMENDATION by Mag. Judge Terence P. Kemp that motion for partial dismissal be denied
		* * *
02/25/2002	144	OPINION AND ORDER by Judge Edmund A. Sargus Jr denying motion do dismiss [131-1], denying motion to partial dismissal [128-1], adopting motion REPORT AND RECOMMENDATION [125-1], denying motion for partial dismiss [90-1] w/ the exception that plf claims asserted directly under the Ohio Constitution are DISMISSED (cc: all counsel) (no pgs: 6) (sh) (Entered: 02/26/2002)
		* * *

08/04/2003 151 ORDER by Judge Edmund A. Sargus Jr granting motion to certify 2/25/02 order for immediate appeal [148-1] (cc: all counsel) (no pgs: 3) (sh) (Entered: 08/07/2003)

* * *

US Court of Appeals for the Sixth Circuit

Court of Appeals Docket #: 02-3270, 02-3299, 02-3301

Cutter, et al v. Wilkinson, et al

Appeal from: Southern District of Ohio at Columbus

8/6/03 Joint Petition for Leave to Appeal for cases 02-3270; 02-3301; and 02-3299.

* * *

9/23/03 ORDER filed granting joint petition for leave to appeal

* * *

11/7/03 OPINION FILED: REVERSED and REMANDED;

11/7/03 JUDGMENT: REVERSED and REMANDED.

12/1/03 MANDATE ISSUED

* * *

12/16/03 ORDER filed to recall mandate

* * *

3/3/04 ORDER filed denying the petition for en banc rehearing

* * *

United States District Court
SOUTHERN DISTRICT OF OHIO
EASTERN DISTRICT

JOHN MILLER, ET AL.,
(*Enter above the full name of the plaintiff in this action*)

AND ALL OTHERS SIMILARLY SITUATED.

vs

Reginald Wilkinson	Class Action Lawsuit Pursuant to Federal Rules Civil Procedure 23.
David Schwarz	
Terry Collins	C2-98-275
Cheryl Hart	Judge [Illegible] Magistrate Judge ~~King~~ Kemp
Charles Griffin	

(*Enter above the full name of the defendant or defendants in this action*)

[Pro Se]

COMPLAINT

(Filed Mar. 12, 1998)

I. Previous Lawsuits.

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action otherwise relating to your imprisonment? Yes (x) No ( )

B. If your answer to A is yes, describe the lawsuit in the space below. (if there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.

1. Parties to this previous lawsuit

Plaintiffs In re: Name change of Darryl Blankenship

Defendants None

2. Court (if Federal court, name the District: if State Court, name the County)

Probate Court, Ross County, Ohio

3. Docket Number 97-CN-013

4. Name of Judge to whom case was assigned

Kellenberger

5. Disposition (for example, Was the case dismissed? Was it appealed? Is it still pending?

Dismissed

6. Approximate Date of Filing Lawsuit: 03-20-97

7. Approximate Date of Disposition: 06-01-97

8. Nature of Suit: Petition to Change Name For Religious Reasons.

B.II.

1. Parties to Previous Lawsuit.

Plaintiff: In re: Name Change of Rick Hall

Defendant: None

2. Court: Probate Court, Ross County, Ohio

3. Docket No.: 97-CN-016

4. Name of Judge to Whom Assigned: Kellenberger

5. Disposition Dismissed – Appealed on 06/25/97

6. Approximate Date of Filing Lawsuit: 04-01-97

7. Approximate Date of Disposition: 05-28-97

8. Nature of Suit: Petition to Change Name For Religious Reasons

9. Appealed to: Fourth District Court of Appeals Ross County, Ohio

10. Docket No. on Appeal: 97-CA-2305
11. Disposition on Appeal: _____

B.III.

1. Parties to Previous Lawsuit.

   Plaintiff: Rick Hall

   Defendant: Ross Correctional Institution
2. Court: Supreme Court of Ohio
3. Docket No.: 97-0741
4. Name of Judge to Whom Assigned: Moyer
5. Disposition: Dismissed – Premature (see Below)
6. Approximate Date of Filing Lawsuit: 04-14-97
7. Approximate Date of Disposition: 04-23-97
8. Nature of Suit: Mandamus/Prohibition on Right to Hair & Beard in Accordance with Religious Beliefs

B.IV.

1. Parties to Previous Lawsuit.

   Plaintiff: Rick Hall

   Defendant: Ross Correctional Institution
2. Court: Supreme Court of Ohio
3. Docket No.: 97-2037
4. Name of Judge to Whom Assigned: Moyer
5. Disposition: Dismissed
6. Approximate Date of Filing Lawsuit: 10-01-97
7. Approximate Date of Disposition: 12-10-97

8. Nature of Suit: Mandamus/Prohibition on Right to Hair & Beard in Accordance with Religious Beliefs

B.V.

1. Parties to Previous Lawsuit.

   Plaintiff: Jeffrey Holland

   Defendant: David Schwarz/Cheryl Hart/ Charles Griffin
2. Court: Supreme Court of Ohio
3. Docket No.: 97-2355
4. Name of Judge to Whom Assigned: Moyer
5. Disposition: Dismissed
6. Approximate Date of Filing Lawsuit: 11-12-97
7. Approximate Date of Disposition: 1-21-98
8. Nature of Suit: Mandamus to Compel Processing of Asatru Religious Accommodation requests/Appeal.

B.VI.

1. Parties to Previous Lawsuit.

   Plaintiff: David Dattilo

   Defendant: Ohio Dept. Rehabilitation & Corrections
2. Court: Supreme Court of Ohio
3. Docket No.: 97-2614
4. Name of Judge to Whom Assigned: Moyer
5. Disposition: Dismissed

6. Approximate Date of Filing Lawsuit: 12-15-97
7. Approximate Date of Disposition: 1-28-98
8. Nature of Suit: Mandamus to Compel Asatru Group Worship Services and Right to Hair and Beard in Accordance with Religious Beliefs

II. Place of present confinement Ross Correctional Inst. Chillicothe, Ohio.

A. Is there a prisoner grievance procedure in this institution? Yes (x) No ( )

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure? Yes (x) No ( )

C. If your answer is YES,

1. What steps did you take? Filed multiple letters, complaints, grievances and appeals from grievances. Grievance Nos. 4-97-14/6-97-1/7-97-14/7-97-19/7-97-20/9-97-10/9-97-11/11-97-13 and others

2. What was the result? Many grievances were not processed, others were dismissed without addressing their merits, others were simply denied. Denials were affirmed on appeal.

D. If you answer is NO, explain why not. N/A

E. If there is no prison grievance procedure in this institution, did you complain to the prison authorities? Yes (x) No ( )

F. If you answer is YES,

1. What steps did you take? Wrote many letters of complaint, and filed formal requests for Asatru religious accommodations and appealed therefrom

2. What was the result: Complaints ignored or advised to file additional complaints, religious accommodation requests and appeals therefrom were all denied

III. Parties

In Item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

A. Name of Plaintiff John Miller #199-891
Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.II. Name of Plaintiff Rick Hall (a.k.a. Raven McClowd) #277-848
Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.III. Name of Plaintiff Jeffrey Holland (a.k.a. Thorvald Halland) #319-713
Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.IV. Name of Plaintiff David Dattilo #301-729
Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.V. Name of Plaintiff Roy Howington #315-531
Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.VI. Name of Plaintiff Darryl Blankenship (Alfar Kynwulf) #295-771
Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.VII. Name of Plaintiff Fred Schocke #285-016

Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.VIII. Name of Plaintiff Matthew Stump #253-213

Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.IX. Name of Plaintiff William Lemasters #276-290

Address Ross Corr. Inst., P.O. Box 7010, Chillicothe, Ohio 45601

A.X. Name of Plaintiff _____

Address _____

And all others similarly situated within Ohio Prisons

OTHER POSSIBLE PLAINTIFFS

Name: David Allen #309-572
Address: Madison Corr. Inst., P.O. Box 740, London, Ohio 43130

Name: Joseph Klinger #319-449
Address: Pickaway Corr. Inst., P.O. Box 209, Orient, Ohio 43146

Name: Jerry Rine #198-582
Address: Chillicothe Corr. Inst., P.O. Box 5500, Chillicothe, Ohio 45601

Name: Allen Semenchuk #156-157
Address: Mansfield Corr. Inst., P.O. Box 788, Mansfield, Ohio 44901

Name: Roy Slider #157-322
Address: S.O.C.F., P.O. Box 45699 Lucasville, Ohio 45699

In Item B below, place the full name of the Defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions and places of employment of any additional defendants.

B. Defendant Reginald Wilkinson is employed as Director of Ohio Dept. of Rehab. and Corr. at 1050 Freeway Drive North Columbus, Ohio 43229

C. Additional Defendants David Schwarz is employed as administrator of religious services for Ohio Dept. of Rehab. and Corr., at 1050 Freeway Drive North, Columbus, Ohio 43229.

D. Defendant Terry Collins
Is Employed As Warden of Ross Correctional Inst.
at P.O. Box 7010, Chillicothe, Ohio 45601

E. Defendant Cheryl Hart
Is Employed As Deputy Warden of Ross Corr. Inst.
at P.O. Box 7010, Chillicothe, Ohio 45601

F. Defendant Charles Griffen
Is Employed As Chaplain of Ross Correctional Inst.
at P.O. Box 7010, Chillicothe, Ohio 45601

IV. Statement of claim.

State here as briefly as possible the *facts* of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheet if necessary.

ALL PLAINTIFFS HEREIN ARE BELIEVERS IN THE ANCIENT TEUTONIC/NORSE RELIGION OF ASATRU. ASATRU IS ALSO KNOWN AS ODINISM,

VOR TRU, OR TROTH. PLAINTIFF BLANKENSHIP IS A RECOGNIZED MEMBER OF THE GOTHAR (PRIESTHOOD) OF THE ASATRU RELIGION BY THE ASATRU ALLIANCE OF KINDREDS IN VINLAND. ALL PLAINTIFFS ARE INCARCERATED WITHIN THE ROSS CORRECTIONAL INSTITUTION AT CHILLICOTHE, OHIO, BUT THEIR CLAIMS ARE SHARED BY INMATES THROUGHOUT OHIO PRISONS.

FROM APRIL, 1997 TO PRESENT, THE DEFENDANTS WHILE ACTING UNDER COLOR OF STATE LAW, IN THEIR INDIVIDUAL AND/OR OFFICIAL CAPACITIES, HAVE ACTTED WITH CALLUS AND DELIBERATE INDIFFERENCE TO PLAINTIFFS FIRST AMENDMENT RIGHT TO THE FREE EXERCISE OF RELIGION, AND FOURTEENTH AMENDMENT RIGHT TO EQUAL PROTECTION/TREATMENT, AND HAVE DISCRIMINATED AGAINST PLAINTIFFS BASED ON RACE AND RELIGION, CONTRARY TO THE FOURTEENTH AMENDMENT, BY THE FOLLOWING ACTS:

A.) DEFENDANTS GRIFFIN, SCHWARZ AND HART, ON NUMEROUS OCCASSIONS REFUSED TO ANSWER OR RESPOND TO LETTERS, COMPLAINTS, AND REQUESTS FOR ASATRU RELIGIOUS ACCOMMODATION AND APPEALS THEREFROM.

B.) DEFENDANTS GRIFFIN AND SCHWARZ HAVE REFUSED TO RESPOND TO COMPLAINTS CHARGING THEM WITH RELIGIOUS DISCRIMINATION.

C.) DEFENDANTS HART, COLLINS AND WILKINSON, HAVE FAILED, IN THEIR SUPERVISORY POSITIONS, TO CORRECT CONSTITUTIONAL DENIALS OF FREE EXERCISE OF RELIGION, EQUAL

PROTECTION, AND RELIGIOUS DISCRIMINATION WHEN THE ISSUES HAVE REPEATEDLY BEEN BROUGHT TO THEIR ATTENTION VIA LETTERS AND COMPLAINTS.

D.) DEFENDANTS DENY PLAINTIFFS THE RIGHT TO GROUP WORSHIP OR GROUP STUDY TIME, WHILE GRANTING THIS RIGHT TO INMATES OF OTHER RELIGIONS.

E.) DEFENDANTS REFUSE TO PROVIDE PLAINTIFFS WITH HOLY TEXTS OR RELIGIOUS MEDALLIONS FROM PUBLIC FUNDS, WHILE SO PROVIDING THESE ITEMS TO INMATES OF OTHER RELIGIONS.

F.) DEFENDANTS REFUSE TO HIRE AND ASATRU GOTHI (PRIEST) TO CONDUCT BLOTS (RELIGIOUS SERVICES), WHILE PROVIDING PRIEST FOR INMATES OF OTHER RELIGIONS.

G.) DEFENDANTS REFUSE TO ALLOW PLAINTIFFS TO HOLD THEIR OWN WORSHIP OR STUDY SERVICES IN THE ABSENCE OF A PRIEST, IN ACCORD WITH PLAINTIFFS RELIGIOUS BELIEFS.

H.) DEFENDANTS REFUSE TO ALLOW PLAINTIFFS WOODEN OR CERAMIC RUNES, YET ALLOW OTHER INMATES TO POSSESS DOMINO GAME PIECES. REFUSE TO PERMIT PLAINTIFFS DRINKING HORNS, YET PERMIT 5 BY 10 INCH WOODEN AND BRASS CHRISTIAN CRUCIFIX,. REFUSE TO PERMIT OTHER RELIGIOUS ITEMS SUCH AS STAFF AND SAX (CONSTRUCTED OF CARDBOARD), CANDLE, STATUES OF GODS, BLESSING TWIG, MEAD OR MEAD SUBSTITUTE, RITUAL BOWL, ALTAR OR ALTAR CLOTH.

I.) DEFENDANTS REFUSE TO RECOGNIZE ASATRU HOLY DAYS AND FEAST DAYS, YET

RECOGNIZE CHRISTIAN AND MUSLIM HOLY DAYS, FEASTS AND MONTH LONG RAMADAN.

J.) DEFENDANTS REFUSE TO ALLOW PLAINTIFFS TO SHAVE THEIR HEADS UPON HOLY OATHS, WHILE BLACK INMATES ARE NOT PUNISHED FOR SHAVING THEIR HEADS OR WEARING HAIR DISPROPORTIONATELY LONGER IN ONE AREA THAN ANOTHER, DESPITE PROHIBITION ON SAME.

K.) DEFENDANTS REFUSE TO ALLOW PLAINTIFFS TO GROW HAIR AND BEARD LONG IN ACCORDANCE WITH RELIGIOUS BELIEFS AND REQUIRE HAIRCUTS WHICH CONFLICT WITH RELIGIOUS BELIEFS, YET PERMIT INMATES OF NATIVE AMERICAN RELIGIONS TO GROW LONG HAIR. IN ADDITION, BLACK INMATES FREELY WEAR LONG HAIR IN BRAIDS OR PLAITS WITHOUT FEAR OF PUNISHMENT.

L.) DEFENDANTS REFUSE TO RECOGNIZE PLAINTIFFS BY THEIR RELIGIOUS NAMES.

M.) DEFENDANTS REFUSE TO PROVIDE PLAINTIFFS WITH CHAPEL SPACE OR OTHER ACCOMMODATIONS FOR WORSHIP OR STUDY.

N.) DEFENDANTS HAVE DENIED PLAINTIFF'S DUE PROCESS AND HAVE INTERFERED WITH PLAINTIFFS ACCESS TO THE COURT BY ATTEMPTING TO PROHIBIT PLAINTIFFS FROM EXHAUSTING ADMINISTRATIVE REMEDIES BY REFUSING TO PROCESS RELIGIOUS REQUESTS AND COMPLAINTS.

The specific acts by Plaintiffs/Defendants would include, but are by no means limited to the following:

I. **FACTS RELATING TO PLAINTIFF MILLER INCLUDE:**

1.) TWICE IN APRIL, 1997, MILLER WROTE DEFENDANT SCHWARZ TO REQUEST THE RIGHT TO SHAVE HIS HEAD PURSUANT TO A RELIGIOUS OATH. SCHWARZ DENIED BOTH REQUESTS.

2.) ON 7-1-97, MILLER FILED AN INFORMAL COMPLAINT WITH DEFENDANT SCHWARZ REQUESTING THE RIGHT TO WEAR HAIR AND BEARD IN ACCORDANCE WITH HIS RELIGIOUS BELIEF. SCHWARZ REFUSED TO RESPOND.

3.) ON 7-2-97, MILLER FILED AN INFORMAL COMPLAINT WITH DEFENDANT SCHWARZ REQUESTING RIGHT TO ASATRU RELIGIOUS SERVICES AND ASATRU PRIEST. SCHWARZ REFUSED TO RESPOND.

4.) ON OR ABOUT 7-29-97, MILLER FILED A GRIEVANCE WITH THE CHIEF INSPECTOR AGAINST DEFENDANT SCHWARZ FOR HIS REFUSAL TO RESPOND TO THE COMPLAINTS OF 7-1-97 AND 7-2-97. THE CHIEF INSPECTOR DISMISSED THE GRIEVANCE. EXHAUSTING THIS REMEDY.

5.) ON 11-1-97, MILLER FILED AN INFORMAL COMPLAINT WITH DEFENDANT SCHWARZ ON HIS FAILURE TO RESPOND TO THE COMPLAINTS OF 7-1-97 AND 7-2-97. SCHWARZ REFUSED TO RESPOND.

6.) ON 8-12-97, MILLER SUBMITTED TO DEFENDANT GRIFFIN A DRC POLICY 309-01 ASATRU RELIGIOUS ACCOMMODATION REQUEST, SEEKING ACCOMMODATION OF ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS THIS FORM.

7.) ON 9-3-97, MILLER FILED WITH DEFENDANT HART A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART RETURNED THE FORM REFUSING TO PROCESS IT.

8.) ON 9-19-97, MILLER SUBMITTED TO DEFENDANT GRIFFIN ANOTHER DRC POLICY 39-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. AGAIN GRIFFIN FAILED TO PROCESS SAME.

9.) ON 11-1-97, MILLER FILED AN INFORMAL COMPLAINT WITH DEFENDANT GRIFFIN ON HIS REFUSAL TO PROCESS DRC POLICY 309-01 FORMS REQUESTING ASATRU RELIGIOUS ACCOMMODATION. GRIFFIN REFUSED TO RESPOND.

10.) ON 11-3-97, MILLER EXHAUSTED ALL ADMINISTRATIVE REMEDIES ON ASATRU RELIGIOUS ACCOMMODATION BY FILING A DRC POLICY 309-01 APPEAL TO DEFENDANT SCWARZ. ON 12-4-97, MILLER RECEIVED THE ANSWER TO HIS APPEAL FROM SCHWARZ, WHICH WAS DATED 11-21-97, IN WHICH SCHWARZ REFUSED TO ACCOMMODATE THE ASATRU RELIGION OR PRACTICES.

11.) ON 11-5-97, MILLER SENT A LETTER TO MR. ERIC DAHLBERG, REGIONAL DIRECTOR OF OHIO DEPT. OF REHAB. AND CORR. ASKING FOR ASSISTANCE IN HAVING ASATRU ACCOMMODATED WITHIN THE OHIO PRISON SYSTEM AND INFORMING HIM OF THE DIFFICULTIES IN HAVING ASATRU RELIGIOUS REQUESTS PROCESSED. A COPY OF THIS LETTER WAS SERVED UPON DEFENDANT WILKINSON. NO REPLY HAS BEEN RECEIVED.

12.) ON 12-3-97, MILLER FILED A GRIEVANCE WITH THE CHIEF INSPECTOR AT CENTRAL OFFICE, FURTHER EXHAUSTING ALL ADMINISTRATIVE REMEDIES, ALLEGING DISCRIMINATION ON REPEATED FAILURES TO PROCESS ASATRU RELIGIOUS REQUESTS, AND ASKING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. THE CHIEF INSPECTOR. ON 12-17-97, REFUSED TO PROCESS THE APPEAL/GRIEVANCE, CALLING IT "NOT GRIEVABLE".

II: <u>FACTS RELATING TO PLAINTIFF HALL INCLUDE:</u>

1.) ON 4-10-97, HALL WROTE DEFENDANTS GRIFFIN AND SCHWARZ REQUESTING ACCOMMODATION OF ASATRU RELIGION, RECOGNITION OF RELIGIOUS NAME, AND RIGHT TO HAIR AND BEARD IN ACCORDANCE WITH RELIGIOUS BELIEFS, AND RIGHT TO POSSESS RELIGIOUS ITEMS. GRIFFIN FAILED TO ANSWER, BUT ON 4-29-97 SCHWARZ DENIED ALL RELIGIOUS REQUESTS.

2.) ON 7-7-97, HALL SUBMITTED AN INFORMAL COMPLAINT TO DEFENDANT SCHWARZ REQUESTING THE RIGHT OT WEAR HAIR AND BEARD IN ACCORD WITH HIS RELIGIOUS BELIEFS. SCHWARZ REFUSED TO REPLY. ON 7-24-97, HALL FILED A GRIEVANCE ON THIS MATTER. ON 8-16-97, THE GRIEVANCE WAS DENIED. ON 8-19-97, HALL EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR. ON 9-15-97, THE CHIEF INSPECTOR AFFIRMED THE DENIAL (GRIEVANCE NO. 7-97-14).

3.) ON 6-19-97, HALL FILED AN INFORMAL COMPLAINT WITH DEFENDANT SCHWARZ REQUESTING AN ASATRU PRIEST AND RELIGIOUS ACCOMMODATION. SCHWARZ FAILED TO RESPOND. ON 8-26-97, HALL FILED A GRIEVANCE ON THIS MATTER. ON 9-13-97, THE GRIEVANCE WAS DENIED AND HALL WAS GIVEN A DIRECT ORDER TO FILE NO MORE GRIEVANCES. ON 9-15-97, HALL EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR. ON 10-20-97, THE CHIEF INSPECTOR AFFIRMED THE DENIAL (GRIEVANCE NO. 9-97-11).

4.) ON 7-30-97, HALL SUBMITTED TO DEFENDANT SCHARZ AN INFORMAL COMPLAINT ALLEGING DISCRIMINATION FOR HIS FAILURE TO REPLY TO THE PRIOR COMPLAINTS OF 6-19-97 AND 7-7-97. SCHWARZ AGAIN FAILED TO ANSWER OR RESPOND. ON 8-25-97, HALL FILED A GRIEVANCE ON THIS ACT OF DISCRIMINATION. ON 9-13-97 THE GRIEVANCE WAS DENIED AND HALL WAS GIVEN A DIRECT ORDER TO FILE NO MORE GRIEVANCES. ON 9-15-97, HALL EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR. ON 10-20-97, THE CHIEF INSPECTOR AFFIRMED THE DENIAL (GRIEVANCE NO. 9-97-10).

5.) ON 7-28-97 AND 8-25-97, HALL FILED INFORMAL COMPLAINTS WITH DEFENDANT HART, EXPLAINING THE INADEQUACY OF THE GRIEVANCE PROCEDURE AND ASKED HER ASSISTANCE IN OBTAINING REPLIES TO RELIGIOUS ISSUES. HART FAILED TO INTERVENE.

6.) ON 8-18-97, HALL FILED A COMPLAINT WITH THE CORRECTIONAL INSTITUTION INSPECTION COMMITTEE ON THE INSTITUTIONS REPEATED FAILURE TO PROCESS ASATRU RELIGIOUS REQUESTS. A COPY OF THIS COMPLAINT WAS SERVED UPON DEFENDANT WILKINSON. NO REPLY WAS RECEIVED.

7.) ON 8-4-97, HALL FILED WITH DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS SAME.

8.) ON 9-1-97, HALL SUBMITTED TO DEFENDANT HART A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART RETURNED THE FORM REFUSING TO PROCESS SAME.

9.) ON 9-8-97, HALL SUBMITTED TO DEFENDANT GRIFFIN ANOTHER DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO TIMELY ANSWER.

10.) ON 10-9-97, HALL EXHAUSTED ADMINISTRATIVE REMEDIES BY FILING A DRC POLICY 309-01 APPEAL WITH DEFENDANT SCHWARZ, EXPLAINING THAT HART AND GRIFFIN HAD REFUSED TO PROCESS DRC POLICY 309-01 REQUESTS, AND ASKING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. SCHWARZ FAILED TO PROCESS THIS APPEAL. TO FURTHER EXHAUST ADMINISTRATIVE REMEDIES, HALL, ON 11-21-97, FILED WITH THE CHIEF INSPECTOR A GRIEVANCE CHARGING RELIGIOUS DISCRIMINATION AGAINST SCHWARZ FOR REFUSING TO PROCESS THE DRC

POLICY 309-01 APPEAL, AND ASKING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. ON 12-4-97, THE CHIEF INSPECTOR REFUSED TO PROCESS THE GRIEVANCE BY STATING THE ISSUES WERE "NOT GRIEVABLE".

11.) ON 10-14-97, HALL SUBMITTED AN INFORMAL COMPLAINT TO DEFENDANT GRIFFIN CHARGING HIM WITH RELIGIOUS DISCRIMINATION FOR FAILING TO ANSWER OR RESPOND TO ASATRU RELIGIOUS REQUESTS/ COMPLAINTS. GRIFFIN FAILED TO ANSWER. ON 11-1-97, HALL FILED A GRIEVANCE ON THIS MATTER. ON 11-13-97, THE GRIEVANCE WAS DENIED, HALL EXHAUSTED ALL ADMINISTRATIVE REMEDIES ON 11-17-97, BY APPEALING TO THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 12-17-97, AFFIRMED THE DECISION OF THE INSTITUTIONAL INSPECTOR ON THIS MATTER (GRIEVANCE NO. 11-97-12).

12.) ON 10-27-97, HALL FILED AN INFORMAL COMPLAINT WITH DEFENDANT HART, COMPLAINING OF THE REPEATED FAILURES TO PROCESS ASATRU RELIGIOUS REQUESTS/ COMPLAINTS. ON 10-31-97, HART RESPONDED STATING THE INSTITUTION WOULD NO LONGER INVOLVE ITSELF IN ASATRU RELIGIOUS REQUESTS.

13.) ON 9-17-97, HALL SERVED A LETTER UPON DEFENDANT COLLINS ASKING WHY ASATRU RELIGIOUS REQUESTS/COMPLAINTS WERE NOT BEING ANSWERED. ON 10-1-97, DEFENDANT HART ANSWERED FOR COLLINS STATING DOCUMENTS WERE BEING PROCESSED.

14.) ON 12-3-97, HALL WAS CALLED TO SPEAK WITH INSTITUTIONAL INSPECTOR WILLIAM McGINNIS. McGINNIS DELIVERED TO HALL THE ANSWER OF GRIFFIN AND COLLINS TO HALL'S 9-8-97, DRC POLICY 309-01 REQUEST FOR ASATRU RELIGIOUS ACCOMMODATION. ON 11-13-97, GRIFFIN AND COLLINS DENIED ALL REQUEST FOR ASATRU RELIGIOUS ACCOMMODATION. ON 12-3-97, HALL EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY FILING HIS DRC POLICY 309-01 APPEAL WITH DEFENDANT SCHWARZ. SCHWARZ, ON JANUARY 7, 1998, DISMISSED THE APPEAL AND DENIED ALL RELIGIOUS REQUESTS. TO FURTHER EXHAUST ADMINISTRATIVE REMEDIES, HALL, ON 1-12-98 FILED A GRIEVANCE WITH THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 2-6-98, DISMISSED THE GRIEVANCE (GRIEVANCE NO. CI-98-39).

III: **FACTS RELATING TO PLAINTIFF HOLLAND INCLUDE:**

1.) ON 8-22-97, HOLLAND SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT REQUESTING THAT THE ASATRU RELIGION BE ACCOMMODATED. ON 8-27-97, HART RESPONDED INFORMING HOLLAND TO CONTACT THE CHAPLAIN.

2.) ON 8-5-97, HOLLAND SUBMITTED TO DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS SAME.

3.) ON 8-30-97, HOLLAND SUBMITTED TO DEFENDANT HART A DRC POLICY 309-01 FORM

REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART RETURNED THE FORM REFUSING TO PROCESS SAME.

4.) ON 9-10-97, HOLLAND SUBMITTED TO DEFENDANT GRIFFIN ANOTHER DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO TIMELY ANSWER OR RESPOND.

5.) ON 10-9-97, HOLLAND EXHAUSTED ADMINISTRATIVE REMEDIES BY FILING A DRC POLICY 309-01 APPEAL WITH DEFENDANT SCHWARZ, EXPLAINING THAT HART AND GRIFFIN HAD REFUSED TO PROCESS DRC POLICY 309-01 REQUESTS, AND ASKING THAT THE ASATRU RELIGION AND PRACTICES BY ACCOMMODATED. SCHWARZ FAILED TO TIMELY PROCESS THIS APPEAL. TO FURTHER EXHAUST ALL ADMINISTRATIVE REMEDIES, HOLLAND, ON 11-21-97, FILED WITH THE CHIEF INSPECTOR A GRIEVANCE CHARGING RELIGIOUS DISCRIMINATION AGAINST SCHWARZ FOR REFUSING TO PROCESS THE DRC POLICY 309-01 APPEAL, AND ASKING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. ON 12-4-97, THE CHIEF INSPECTOR REFUSED TO PROCESS THE GRIEVANCE BY STATING THE ISSUES WERE "NOT GRIEVABLE".

6.) ON 8-15-97, HOLLAND SUBMITTED TO DEFENDANT SCHWARZ AN INFORMAL COMPLAINT ASKING FOR ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. SCHWARZ FAILED TO RESPOND.

7.) ON 10-14-97, HOLLAND SUBMITTED TO DEFENDANT GRIFFIN COMPLAINT CHARGING

HIM WITH RELIGIOUS DISCRIMINATION FOR REPEATEDLY FAILING TO RESPOND TO ASATRU RELIGIOUS REQUESTS. GRIFFIN FAILED TO RESPOND. ON 11-1-97, HOLLAND FILED A GRIEVANCE ON THIS MATTER. ON 11-13-97, THE GRIEVANCE WAS DENIED. HOLLAND EXHAUSTED ALL ADMINISTRATIVE REMEDIES ON 11-17-97, BY APPEALING TO THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 12-17-97, AFFIRMED DENIAL OF GRIEVANCE (GRIEVANCE NO. 11-97-11).

8.) ON 10-27-97, HOLLAND SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT ON THE REPEATED FAILURES TO PROCESS ASATRU RELIGIOUS REQUESTS. ON 10-30-97, HART RESPONDED STATING THE INSTITUTION WOULD NO LONGER INVOLVE ITSELF WITH ASATRU RELIGIOUS REQUESTS.

9.) ON 12-3-97, HOLLAND WAS CONTACTED BY WILLIAM McGINNIS, THE INSTITUTIONAL INSPECTOR, WHO DELIVERED TO HOLLAND THE BELATED ANSWER BY DEFENDANTS GRIFFIN AND COLLINS TO HOLLAND'S 9-10-97 DRC POLICY 309-01 REQUEST FOR ACCOMMODATION OF ASATRU RELIGION AND PRACTICES. ON 11-13-97, GRIFFIN AND COLLINS HAD DENIED ALL ASATRU RELIGIOUS REQUESTS. TO EXHAUST ADMINISTRATIVE REMEDIES, ON 12-3-97, HOLLAND SUBMITTED TO DEFENDANT SCHWARZ A DRC POLICY 309-01 APPEAL SEEKING ACCOMMODATION OF THE ASATRU RELIGION. SCHWARZ DENIED THE APPEAL ON 1-7-98, HOLLAND, ON 1-12-98, FILED A GRIEVANCE TO THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 2-6-98, DENIED THE GRIEVANCE (GRIEVANCE NO. CI-98-38).

10.) ON 12-11-97, HOLLAND RECEIVED FROM DEFENDANT SCHWARZ A BELATED REPLY TO HIS 10-9-97 DRC POLICY 309-01 APPEAL. ON 11-24-97, SCHWARZ HAD DENIED THE APPEAL AND REFUSED TO MAKE ANY ACCOMMODATIONS FOR ASATRU RELIGION AND PRACTICES. HOLLAND EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY FILING A GRIEVANCE ON THIS DENIAL TO THE CHIEF INSPECTOR ON 12-19-97. THE CHIEF INSPECTOR, ON 2-6-98, DENIED THE GRIEVANCE (CONSOLIDATED WITH 1-12-98 GRIEVANCE ABOVE STATING THIS WAS A MATTER FOR THE COURTS TO DECIDE. (GRIEVANCE NO. CI-98-38).

IV: <u>FACTS RELATING TO PLAINTIFF DATTILO INCLUDE:</u>

1.) ON 8-22-97, DATTILO SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT SEEKING RECOGNITION OF THE ASATRU RELIGION. ON 8-29-97, HART REPLIED INFORMING DATTILO TO CONTACT CHAPLAIN.

2.) ON 8-5-97, DATTILO SUBMITTED TO DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS SAME.

3.) ON 8-30-97, DATTILO SUBMITTED TO DEFENDANT HART A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART RETURNED THE FORM REFUSING TO PROCESS SAME.

4.) ON 9-12-97, DATTILO SUBMITTED TO DEFENDANT GRIFFIN ANOTHER DRC POLICY

309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. AGAIN GRIFFIN FAILED TO PROCESS THIS FORM.

5.) ON 10-14-97, DATTILO EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY SUBMITTING A DRC POLICY 309-01 APPEAL TO DEFENDANT SCHWARZ. SCHWARZ FAILED TO PROCESS THE APPEAL. TO FURTHER EXHAUST ADMINISTRATIVE REMEDIES, DATTILO, ON 11-21-97, FILED A GRIEVANCE WITH THE CHIEF INSPECTOR ALLEGING RELIGIOUS DISCRIMINATION FOR FAILURE TO PROCESS ASATRU RELIGIOUS ACCOMMODATION REQUESTS, AND ASKING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. ON 12-4-97, THE CHIEF INSPECTOR REFUSED TO PROCESS THE GRIEVANCE CLAIMING THE ISSUES WERE "NOT GRIEVABLE".

6.) ON 10-15-97, DATTILO SUBMITTED TO DEFENDANT GRIFFIN AN INFORMAL COMPLAINT CHARGING RELIGIOUS DISCRIMINATION FOR HIS FAILURE TO PROCESS ASATRU RELIGIOUS ACCOMMODATION REQUESTS. GRIFFIN FAILED TO ANSWER OR RESPOND.

7.) ON 10-27-97, DATTILO SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT ON THE REPEATED FAILURE TO PROCESS ASATRU RELIGIOUS REQUESTS. ON 10-31-97, HART REPLIED STATING THE INSTITUTION WOULD NO LONGER INVOLVE ITSELF WITH ASATRU RELIGIOUS REQUESTS.

V: FACTS RELATING TO PLAINTIFF HOWINGTON INCLUDE:

1.) ON 8-7-97, HOWINGTON SUBMITTED TO DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS SAME.

2.) ON 8-31-97, HOWINGTON SUBMITTED TO DEFENDANT HART A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART RETURNED THE FORM REFUSING TO PROCESS SAME.

3.) ON 9-8-97, HOWINGTON SUBMITTED TO DEFENDANT GRIFFIN ANOTHER DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO TIMELY PROCESS SAME.

4.) ON 10-14-97, HOWINGTON SUBMITTED TO DEFENDANT GRIFFIN AN INFORMAL COMPLAINT CHARGING RELIGIOUS DISCRIMINATION ON HIS REPEATED FAILURE TO PROCESS ASATRU RELIGIOUS REQUESTS. GRIFFIN FAILED TO RESPOND TO SAME.

5.) ON 10-27-97, HOWINGTON SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT ON THE REPEATED FAILURE TO PROCESS ASATRU RELIGIOUS REQUESTS. ON 10-31-97, HART RESPONDED STATING THE INSTITUTION WOULD NO LONGER INVOLVE ITSELF WITH ASATRU RELIGIOUS REQUESTS.

6.) ON 10-9-97, HOWINGTON EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY SUBMITTING TO DEFENDANT SCHWARZ A DRC POLICY 309-01 APPEAL, COMPLAINING OF THE FAILURE

TO PROCESS DRC POLICY 309-01 FORMS AT THE INSTITUTIONAL LEVEL, AND REQUESTING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. SCHWARZ FAILED TO PROCESS THE APPEAL. TO FURTHER EXHAUST ADMINISTRATIVE REMEDIES, HOWINGTON, ON 11-21-97, SUBMITTED TO THE CHIEF INSPECTOR A GRIEVANCE ALLEGING RELIGIOUS DISCRIMINATION FOR FAILURE TO PROCESS ASATRU RELIGIOUS REQUESTS, AND ASKING THAT ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. THE CHIEF INSPECTOR FAILED TO REPLY.

7.) ON 12-3-97, HOWINGTON WAS CONTACTED BY WILLIAM McGINNIS, THE INSPECTOR OF INSTITUTION SERVICES, WHO DELIVERED TO HOWINGTON THE BELATED DECISION OF DEFENDANTS GRIFFIN AND COLLINS TO HIS 9-8-97 DRC POLICY 309-01 REQUEST FOR ASATRU RELIGIOUS ACCOMMODATION. ON 11-13-97, GRIFFIN AND COLLINS HAD DENIED ALL ASATRU RELIGIOUS REQUEST. ON 12-3-97, HOWINGTON EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY SUBMITTING TO DEFENDANT SCHWARZ A DRC POLICY 309-01 APPEAL SEEKING ASATRU RELIGIOUS ACCOMMODATION. SCHWARZ FAILED TO ANSWER OR RESPOND.

VI: FACTS RELATING TO PLAINTIFF BLANKENSHIP INCLUDE:

1.) ON 4-10-97, BLANKENSHIP SUBMITTED TO DEFENDANTS GRIFFIN AND SCHWARZ A REQUEST FOR RECOGNITION OF THE ASATRU RELIGION AND PRACTICES, INCLUDING

GROUP WORSHIP, RECOGNITION OF RELIGIOUS NAMES, RIGHT TO RELIGIOUS MEDALLION AND RITUAL ITEMS, AND RIGHT TO HAIR AND BEARD IN ACCORDANCE WITH RELIGIOUS BELIEFS. GRIFFIN FAILED TO RESPOND, BUT ON 4-29-97, SCHWARZ DENIED ALL REQUESTS AND IMPLIED THAT DISCIPLINARY ACTION COULD BE TAKEN AGAINST BLANKENSHIP.

2.) ON 5-10-97, BLANKENSHIP SUBMITTED TO SCHWARZ ANOTHER REQUEST FOR ACCOMMODATION OF ASATRU RELIGION AND ASKING THAT AN ASATRU PRIEST BE HIRED. SCHWARZ FAILED TO REPLY. ON 6-6-97 AND 6-16-97, BLANKENSHIP WROTE SCHWARZ TO REQUEST A REPLY TO HIS 5-10-97 REQUEST. BLANKENSHIP SERVED COPIES OF THESE LETTERS TO DEFENDANT WILKINSON. AGAIN NO REPLY WAS RECEIVED. ON 6-20-97, BLANKENSHIP SUBMITTED TO DEFENDANT SCHWARZ AN INFORMAL COMPLAINT REQUESTING THE ACCOMMODATION OF ASATRU RELIGION, PRIEST, GROUP WORSHIP, TEXT AND MEDALLIONS, AND RELIGIOUS HOLIDAYS, SCHWARZ FAILED TO REPLY, ON 7-7-97, BLANKENSHIP FILED A GRIEVANCE ON THIS MATTER. ON 7-11-97, THE GRIEVANCE WAS RETURNED BY THE INSPECTOR STATING THAT HE HAD TALKED TO SCHWARZ AND SCHWARZ WOULD BE ANSWERING THE COMPLAINT THAT WEEK, AND ADVISING BLANKENSHIP TO RESUBMIT THE GRIEVANCE AFTER RECEIVING SCHWARZ REPLY. SCHWARZ FAILED TO SO REPLY, AND ON JULY 25, 1997, BLANKENSHIP RESUBMITTED THE GRIEVANCE. ON 8-28-97 THE GRIEVANCE WAS DENIED. ON THE GRIEVANCE DISPOSITION BLANKENSHIP WAS TOLD TO NOT SUBMIT ANY MORE GRIEVANCES. ON 8-29-97,

BLANKENSHIP EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 10-6-97 AFFIRMED THE DENIAL (GRIEVANCE NO. 7-97-20).

3.) ON 7-31-97, BLANKENSHIP SUBMITTED AN INFORMAL COMPLAINT UPON DEFENDANT SCHWARZ ALLEGING RELIGIOUS DISCRIMINATION ON HIS FAILURE TO REPLY TO ASATRU RELIGIOUS REQUESTS. SCHWARZ FAILED TO RESPOND. ON 8-25-97, BLANKENSHIP FILED A GRIEVANCE ON THIS MATTER. ON 8-28-97, THE GRIEVANCE WAS DENIED AND BLANKENSHIP WAS ORDERED TO FILE NO MORE GRIEVANCES. ON 8-29-97, BLANKENSHIP EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 10-6-97 AFFIRMED THE DENIAL (GRIEVANCE NO. 7-97-19).

4.) ON 5-2-97, BLANKENSHIP SUBMITTED TO DEFENDANT GRIFFIN AN INFORMAL COMPLAINT REQUESTING RECOGNITION OF HIS RELIGIOUS NAME. GRIFFIN FAILED TO RESPOND. ON 5-12-97, BLANKENSHIP SUBMITTED TO GRIFFIN A SECOND INFORMAL COMPLAINT REQUESTING RECOGNITION OF HIS RELIGIOUS NAME. AGAIN GRIFFIN FAILED TO RESPOND. ON 5-23-97, BLANKENSHIP FILED A GRIEVANCE ON THIS MATTER. ON 6-4-97 THE GRIEVANCE WAS DISMISSED. ON 6-5-97, BLANKENSHIP EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR, THE CHIEF INSPECTOR, ON 7-7-97 AFFIRMED THE DISMISSAL (GRIEVANCE NO. 6-97-1).

5.) ON 6-25-97, BLANKENSHIP SUBMITTED TO DEFENDANT SCHWARZ AN INFORMAL

COMPLAINT REQUESTING THE RIGHT TO WEAR HAIR AND BEARD IN ACCORDANCE WITH HIS RELIGIOUS BELIEFS. SCHWARZ FAILED TO REPLY. ON 7-25-97, BLANKENSHIP FILED A GRIEVANCE ON THIS MATTER. ON 8-16-97 THE GRIEVANCE WAS DISMISSED. ON 8-19-97, BLANKENSHIP EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR. ON 9-15-97 THE CHIEF INSPECTOR AFFIRMED THE DISMISSAL (GRIEVANCE NO. 7-97-9).

6.) ON 6-6-97, BLANKENSHIP SUBMITTED TO DEFENDANT WILKINSON A LETTER COMPLAINING OF ASATRU RELIGIOUS DISCRIMINATION. WILKINSON FAILED TO RESPOND.

7.) ON 7-1-97, BLANKENSHIP SUBMITTED TO GOVERNOR VOINOVICH A LETTER COMPLAINING OF ASATRU RELIGIOUS DISCRIMINATION, AND SERVED A COPY OF THIS LETTER UPON DEFENDANT WILKINSON.

8.) ON 8-15-97, BLANKENSHIP SUBMITTED TO OHIO ATTORNEY GENERAL BETTY MONTGOMERY COMPLAINING OF ASATRU RELIGIOUS DISCRIMINATION, AND SERVED A COPY OF THIS LETTER UPON DEFENDANT WILKINSON.

9.) ON 8-18-97, BLANKENSHIP AND OTHERS SERVED UPON SHIRLEY POPE, CORRECTIONAL INSTITUTION INSPECTION COMMITTEE A FORMAL COMPLAINT ON REFUSAL TO PROCESS COMPLAINTS/REQUESTS ON ASATRU RELIGIOUS MATTERS. A COPY OF THIS COMPLAINT WAS SERVED UPON DEFENDANT WILKINSON.

10.) ON 9-8-97, BLANKENSHIP AND OTHERS FILED A FORMAL COMPLAINT WITH THE CORRECTIONAL INSTITUTION INSPECTION COMMITTEE ON RELIGIOUS DISCRIMINATION, AND

FAILURE TO PROCESS RELIGIOUS COMPLAINTS. A COPY OF THIS COMPLAINT WAS SERVED UPON DEFENDANT WILKINSON.

11.) ON 8-25-97, BLANKENSHIP SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. ON 8-27-97, HART REPLIED INFORMING BLANKENSHIP TO TAKE HIS COMPLAINTS TO DEFENDANT GRIFFIN.

12.) ON 8-4-97, BLANKENSHIP SUBMITTED TO DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS SAME. ON 8-29-97, BLANKENSHIP SUBMITTED TO DEFENDANT HART A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART RETURNED THE FORM REFUSING TO PROCESS SAME. ON 9-8-97, BLANKENSHIP SUBMITTED ANOTHER DRC POLICY 309-01 FORM UPON DEFENDANT GRIFFIN REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO TIMELY RESPOND. ON 10-9-97, BLANKENSHIP EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY SUBMITTING TO DEFENDANT SCHWARZ A DRC POLICY 309-01 APPEAL REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. SCHWARZ FAILED TO PROCESS THIS APPEAL. TO FURTHER EXHAUST ADMINISTRATIVE REMEDIES, BLANKENSHIP, ON 11-21-97, FILED A GRIEVANCE WITH THE CHIEF INSPECTOR ALLEGING RELIGIOUS DISCRIMINATION IN FAILING TO PROCESS DRC POLICY 309-01 ASATRU RELIGIOUS REQUESTS, AND ASKING

FOR ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. ON 12-17-97 THE CHIEF INSPECTOR REFUSED TO PROCESS THE GRIEVANCE STATING THE ISSUES WERE "NOT GRIEVABLE".

13.) ON 9-18-97, BLANKENSHIP SUBMITTED A LETTER TO DEFENDANT COLLINS COMPLAINING OF RELIGIOUS DISCRIMINATION AND ASKING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED. COLLINS FAILED TO RESPOND.

14.) ON 8-31-97, BLANKENSHIP SUBMITTED A LETTER TO DEFENDANT HART REQUESTING ACCOMMODATION OF THE ASATRU RELIGION. HART FAILED TO RESPOND.

15.) ON 10-27-97, BLANKENSHIP SUBMITTED A LETTER TO DEFENDANT COLLINS COMPLAINING OF THE REPEATED FAILURE OF GRIFFIN AND HART TO PROCESS DRC POLICY 309-01 RELIGIOUS ACCOMMODATION REQUESTS. A COPY OF THIS LETTER WAS SERVED UPON DEFENDANT WILKINSON. NO REPLY WAS RECEIVED.

16.) ON 10-28-97, BLANKENSHIP SUBMITTED AN INFORMAL COMPLAINT TO DEFENDANT HART ON THE REPEATED FAILURE TO PROCESS DRC POLICY 309-01 ASATRU RELIGIOUS REQUESTS. HART REPLIED ON 10-31-97 STATING THE INSTITUTION WOULD NO LONGER INVOLVE ITSELF IN ASATRU RELIGIOUS REQUESTS.

17.) ON 10-14-97, BLANKENSHIP SUBMITTED TO DEFENDANT GRIFFIN AN INFORMAL COMPLAINT CHARGING HIM WITH RELIGIOUS DISCRIMINATION FOR FAILING TO ANSWER OR RESPOND TO ASATRU RELIGIOUS REQUESTS

AND FAILURE TO PROCESS DRC POLICY 309-01 ASATRU RELIGIOUS ACCOMMODATION FORMS. GRIFFIN FAILED TO RESPOND. ON 11-1-97, BLANKENSHIP FILED A GRIEVANCE ON THIS MATTER. ON 11-13-97 THE GRIEVANCE WAS DISMISSED. ON 11-17-97 BLANKENSHIP EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING TO THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 12-17-97, AFFIRMED THE DISMISSAL OF THE GRIEVANCE. (GRIEVANCE NO. 11-97-13).

18.) ON 12-3-97, BLANKENSHIP RECEIVED FROM WILLIAM McGINNIS, THE INSTITUTIONAL INSPECTOR, THE BELATED REPLY BY DEFENDANTS GRIFFIN AND COLLINS TO HIS 9-8-97 DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. ON 11-13-97 GRIFFIN AND COLLINS HAD DENIED REQUEST FOR ACCOMMODATION OF ASATRU RELIGION BY STATING THAT ASATRU WAS NOT A "MAINSTREAM RELIGION" AND CLAIMING A LACK OF CHAPEL SPACE. ON 12-3-97, BLANKENSHIP EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY FILING WITH DEFENDANT SCHWARZ A DRC POLICY 309-01 APPEAL. ON 12-9-97 SCHWARZ DENIED THE APPEAL. TO FURTHER EXHAUST ADMINISTRATIVE REMEDIES, BLANKENSHIP, ON 12-11-97 FILED WITH THE CHIEF INSPECTOR A GRIEVANCE CHALLENGING THE LEGALITY OF REFUSING TO ACCOMMODATE THE ASATRU RELIGION AND PRACTICES. THE CHIEF INSPECTOR, ON 1-21-98, AFFIRMED DISMISSAL OF THE APPEAL. (GRIEVANCE NO. CI-97-516).

VII: FACTS RELATING TO PLAINTIFF SCHOCKE INCLUDE:

1.) ON 8-12-97, SCHOCKE SERVED UPON DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS SAME.

2.) ON 9-8-97, SCHOCKE SERVED UPON DEFENDANT HART A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART RETURNED THE FORM REFUSING TO PROCESS SAME.

3.) ON 10-9-97, SCHOCKE SERVED UPON DEFENDANT GRIFFIN ANOTHER DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES, AGAIN GRIFFIN FAILED TO PROCESS THIS FORM.

4.) ON 11-17-97, SCHOCKE SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT ON THE REPEATED FAILURE TO PROCESS DRC POLICY 309-01 FORMS REQUESTING ACCOMMODATION OF THE ASATRU RELIGION. HART FAILED TO REPLY, ON 12-2-97, SCHOCKE FILED A GRIEVANCE AGAINST GRIFFIN AND HART ALLEGING RELIGIOUS DISCRIMINATION FOR THE REPEATED FAILURE TO PROCESS ASATRU RELIGIOUS REQUESTS. ON 12-15-97, WILLIAM McGINNIS, THE INSTITUTIONAL INSPECTOR, CALLED SCHOCKE TO HIS OFFICE TO STATE THE CHAPLAIN HAD SENT HIS REQUEST TO COLUMBUS. ON 12-22-97, SCHOCKE WROTE THE INSPECTOR REQUESTING A WRITTEN DISPOSITION TO HIS GRIEVANCE. NO DISPOSITION TO THE GRIEVANCE WAS GIVEN. ON 12-28-97,

SCHOCKE EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY APPEALING THIS MATTER TO THE CHIEF INSPECTOR. THE CHIEF INSPECTOR, ON 1-27-98, RESPONDED BY ALLEGING SCHOCKE HAD WITHDRAWN HIS GRIEVANCE.

5.) ON 9-2-97, SCHOCKE SUBMITTED TO DEFENDANT HART AN INFORMAL COMPLAINT SEEKING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. HART FAILED TO RESPOND.

6.) ON 8-18-97, SCHOCKE SUBMITTED TO DEFENDANT SCHWARZ AN INFORMAL COMPLAINT SEEKING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. SCHWARZ FAILED TO RESPOND.

VIII: FACTS RELATING TO PLAINTIFF STUMP INCLUDE:

1.) ON 8-18-97, STUMP SUBMITTED TO DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS THIS FORM.

2.) ON 10-23-97, STUMP EXHAUSTED ADMINISTRATIVE REMEDIES BY SUBMITTING A DRC POLICY 309-01 APPEAL UPON DEFENDANT SCHWARZ ASKING FOR ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. SCHWARZ FAILED TO PROCESS THE APPEAL.

3.) ON 12-22-97, STUMP FURTHER EXHAUSTED ADMINISTRATIVE REMEDIES BY FILING A GRIEVANCE WITH THE CHIEF INSPECTOR ASKING THAT THE ASATRU RELIGION AND

PRACTICES BE PERMITTED, AND THAT GRIFFIN AND SCHWARZ BE DISCIPLINED FOR THEIR DISCRIMINATORY ACT OF FAILING TO PROCESS ASATRU RELIGIOUS REQUESTS. THE CHIEF INSPECTOR, ON 1-27-98, REPLIED REFUSING TO PROCESS THE GRIEVANCE.

IX: FACTS RELATING TO PLAINTIFF LEMASTERS INCLUDE:

1.) ON 8-18-97, LEMASTERS SUBMITTED TO DEFENDANT GRIFFIN A DRC POLICY 309-01 FORM REQUESTING ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. GRIFFIN FAILED TO PROCESS THIS FORM.

2.) ON 10-23-97, LEMASTERS EXHAUSTED ADMINISTRATIVE REMEDIES BY SUBMITTING A DRC POLICY 309-01 APPEAL UPON DEFENDANT SCHWARZ ASKING FOR ACCOMMODATION OF THE ASATRU RELIGION AND PRACTICES. SCHWARZ FAILED TO PROCESS THE APPEAL.

3.) ON 12-22-97, LEMASTERS FURTHER EXHAUSTED ALL ADMINISTRATIVE REMEDIES BY FILING A GRIEVANCE WITH THE CHIEF INSPECTOR ASKING THAT THE ASATRU RELIGION AND PRACTICES BE ACCOMMODATED, AND THAT GRIFFIN AND SCHWARZ BE DISCIPLINED FOR THEIR ACTS OF DISCRIMINATION IN REFUSING TO PROCESS ASATRU RELIGIOUS REQUESTS. THE CHIEF INSPECTOR, ON 1-27-98, REPLIED REFUSING TO PROCESS THE GRIEVANCE.

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

(A) INJUNCTIVE RELIEF PERMITTING ASATRU INMATES:

1.) ONE HOUR GROUP RELIGIOUS STUDY EVERY TWO WEEKS.

2.) GROUP WORSHIP SERVICES 12 TIMES YEARLY AT HOLY DAYS.

3.) ASATRU GOTHI (PRIEST) OR INMATE LED STUDY AND WORSHIP.

4.) RECOGNITION OF ASATRU HOLY DAYS AND FEAST DAYS.

5.) HOLY TEXTS AND MEDALLIONS FROM PUBLIC FUNDS.

6.) RIGHT TO OBTAIN/POSSESS HOLY RITUAL ITEMS SUCH AS RUNES, DRINKING HORN, BLESSING TWIG, CARDBOARD STAFF AND SWORD, STATUES OF GODS AND GODDESSES, ALTAR CLOTH, MEAD SUBSTITUTE, ARM BAND, MEDALLION.

7.) AN AREA SET ASIDE FOR ASATRU WORSHIP INDOORS OR OUTDOORS.

8.) RIGHT TO HAIR AND BEARD IN ACCORDANCE WITH RELIGIOUS BELIEFS.

(B) TEMPORARY AND IMMEDIATE INJUNCTION FOR:

9.) RIGHT TO WEAR HAIR AND BEARD IN ACCORDANCE WITH RELIGIOUS BELIEFS DURING PENDENCY OF THIS ACTION.

10.) RIGHT TO MEET FOR GROUP STUDY AND WORSHIP DURING THE PENDENCY OF THIS ACTION.

11.) PROHIBITION AGAINST TRANSFER OF PLAINTIFFS TO ANOTHER INSTITUTION WITHOUT JUST CAUSE DURING PENDENCY OF THIS ACTION.

(C) COMPENSATORY DAMAGES IN THE SUM OF $1,500.00

(D) PUNITIVE DAMAGES IN THE SUM OF $15,000.00

(E) NOMINAL DAMAGES IN THE SUM OF $1.00

(F) DEFENDANTS TO PAY COST OF THIS ACTION.

Signed this 25 day of February, 1998.

/s/ John Miller
Signature of Plaintiff

I declare under penalty of perjury that the foregoing is true and correct.

2-25-98 /s/ John Miller
Date *Signature of Plaintiff*

UNDER THE PENALTY OF PERJURY, I HEREBY CERTIFY THAT THE ALLEGATIONS IN THE FOREGOING COMPLAINT ARE TRUE AND CORRECT.

February 25, 1998 DATE	/s/ Rick Hall/AKA Raven McCloud SIGNATURE OF PLAINTIFF HALL
02-25-98 DATE	/s/ Daryl Blankenship/ A.K.A. [Illegible] SIGNATURE OF PLAINTIFF BLANKENSHIP
2/25/98 DATE	/s/ Fred L. Schocke SIGNATURE OF PLAINTIFF SCHOCKE
2-25-98 DATE	/s/ Roy Howington SIGNATURE OF PLAINTIFF HOWINGTON
2/25/98 DATE	/s/ Jeffrey S. Holland SIGNATURE OF PLAINTIFF HOLLAND
2/25/98 DATE	/s/ [Illegible] Dattilo SIGNATURE OF PLAINTIFF DATTILO
2-25-98 DATE	/s/ Matthew Stump SIGNATURE OF PLAINTIFF STUMP
2/25/98 DATE	/s/ William Lemasters SIGNATURE OF PLAINTIFF LEMASTERS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

John Miller, et al.,	:	Case No. C2-98-275
Plaintiffs,	:	Judge Sargus
v.	:	Magistrate Judge Kemp
Reginald Wilkinson, et al.,	:	CLASS ACTION
Defendants.	:	

PLAINTIFF'S THIRD
SUPPLEMENTAL COMPLAINT

Now comes Plaintiffs and for their Third Supplemental Complaint make the following allegations, statements and claims:

1. On March 12, 1998, Plaintiffs filed the instant action, *pro se,* as a class action lawsuit against Defendants alleging a violation of Plaintiffs right to free exercise of their Asatru religion. In their original Complaint, Plaintiffs prayed for temporary and permanent injunctive relief and for damages. Among other things, Plaintiffs Complaint sought injunctive relief to conduct weekly worship services, be permitted to recognize their religious holy days, obtain and possess sacred objects which are a part of Plaintiffs religious services, and keep their hair in accordance with Plaintiff's religious beliefs.

2. Plaintiffs incorporate, as if fully rewritten herein, all of the paragraphs contained in Plaintiffs original Complaint.

3. Plaintiffs incorporate, as if fully rewritten herein, all of the paragraphs contained in the Plaintiffs' Amended Complaint.

4. Plaintiffs incorporate, as if fully rewritten herein, all of the paragraphs contained in Plaintiffs' Second Supplemental Complaint and all other amended complaints and supplemental complaints in this action.

5. Jurisdiction of this action is based on 28 U.S.C. §§ 1331, 1343, and 1367(a), 42 U.S.C. § 1983, and applicable provisions of Ohio law.

6. Declaratory and injunctive relief, damages, costs and attorneys' fees are sought pursuant to 28 U.S.C. §§ 2201-and 2202, 42 U.S.C. §§ 1983 and 1988, the First and Fourteenth Amendments to the United States Constitution and Article I, § 7 of the Ohio Constitution. They are also sought pursuant to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), signed into law on September 29, 2000, which applies to all programs that receive Federal financial assistance. (A copy of which is attached as Exhibit A.)

COUNT VI

7. Defendants' conduct as set forth in the Complaint, the Amended Complaint, the Second Supplemental Complaint and all other amended and supplemental complaints in this action constitutes a substantial burden on Plaintiffs' free exercise of religion in violation of the RLUIPA.

COUNT VII

(Pendent State Cause of Action)

8. Defendants' conduct as set forth in the Complaint, the Amended Complaint, the Second Supplemental Complaint and all other amended and supplemental complaints in this action constitutes preferential treatment in violation of the Article I, § 7 of the Ohio Constitution. Ohio. Const. Art I, § 7.

WHEREFORE, in addition to the relief already requested in this case, Plaintiffs also pray for a declaratory judgment that Defendants' conduct in this case violates the Religious Land Use and Institutionalized Persons Act of 2000 and Article I, § 7 of the Ohio Constitution. Plaintiffs further pray for injunctive and all other appropriate relief prohibiting Defendants from engaging in such conduct.

Respectfully submitted,

/s/ David Goldberger
David Goldberger (001029)
The Ohio State University
College of Law
Clinical Programs
55 West 12th Avenue
Columbus, Ohio 43210
Counsel for Plaintiff Class
(614) 292-6821

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LEE, et al.	:	Case No. C2-97-382
Plaintiffs	:	Judge Graham
v.	:	Magistrate Judge Abel
Wilkinson, et al.	:	
Defendants	:	

[Pro Se]

FIRST AMENDED COMPLAINT

(Filed May 14, 2001)

1). Reginald Wilkinson is the Director of the Ohio Department of Rehabilitation and Correction (hereinafter "DoRC"), a state Department created by Statute pursuant to Ohio Revised Code §121.02(Q).

2). Reverend David Schwarz is South Regional Religious Services Administrator for the DoRC.

3). Nicholas G. Menedez is Chief Inspector of Institutional Services for DoRC

4). L. C. Coval is assistant Chief Inspector of Institutional Services for the DoRC.

5). K. L. Brown is Assistant Chief Inspector of Institutional Services for the DoRC.

6). Rita K. Panzone is employed by the DoRC Legal Services, and performs duties for the Central Office Publication Screening Committee (hereinafter COPSC).

7). George D. Alexander was, at the time of certain events contained herein, Warden of the Pickaway Correctional Institution, a Minimum Security State Penal Facility operated by the DoRC.

8). Dianne Walker is Warden, Pickaway Correctional Institution.

9). Jim Erwin was, at the time of certain events contained herein, Inspector of Institutional Services for Pickaway Correctional Institution ("P.C.I.").

10). Ron Carnein is Deputy Warden of Special Services for PCI.

11). Rudy Pringle is employed as Captain at PCI.

12). Walter Lowery is employed as a Chaplain at PCI.

13). Rick Stallins is employed as a Sergeant at the Pickaway Corr. Inst.

14). Chad Van Sickle is employed as a Correctional Officer at PCI.

15). John Doe and/or Jane Doe is/are any individual(s) whose identity(ies) is/are presently unknown, but who would be named Defendant(s) if his/her/their name(s) and/or identity(ies) were known.

16). All Defendants are being sued in their individual (personal) capacities as well as their Official (professional) capacities, to include their Agent(s), Employee(s), Assignee(s), Representitive(s) and Successor(s) in Office.

17). Plaintiff LEE, also known to DoRC Officials as Inmate Hampton, is a practicing Witch: That is, LEE's sincerely held Religious Beliefs are those of the Wicca

Faith, a valid, recognized Religion in the United States of America.

18). Plaintiff Jon B. Cutter is a Practicing Satanist: That is, Cutter's sincerely held Religious Beliefs are those of the Blackstar Church, a.k.a. the Church of the Anti-Christ, a Church of Satanism, Satanism being a valid, recognized Religion in the United States of America.

19). The First Amendment to the United States Constitution gives all persons the right to have, hold, and Practice the Religion of their Choice.

20). The Fifth and Fourteenth Amendments to the United States Constitution provide Due Process of Law for all persons.

21). The Fourteenth amendment to the United States Constitution provides for Equal Protection of the Laws for all persons.

22). Defendants have no compelling Governmental interest in burdening the Plaintiffs' exercise of Religion, and indeed, have written Rules, Regulations, Policies and/or Procedures that supposedly permit free and unfettered exercise of Religion to all inmates incarcerated in the DoRC.

23). The Pickaway Correctional Institution Religious Services Department has taken steps to accommodate the Religious Practice of a wide variety of Religious Beliefs, including Catholocism, Islam, Native American, etc.

24). Christian, Islammic, Native American, and inmates of other Faith Groups than those of the Plaintiffs are permitted to gather in various places in the Institution to

pray, study, and discuss their Religion amongst themselves without Staff Supervision.

25). During the Holy Month of Ramadan, Islammic inmates were awakened by Institutional Personnel and allowed to leave the Inmate Housing Areas during a time when other inmates were not allowed to, in order to gather together in spaces provided in the Housing Units for them to perform their necessary Religious Rites, unsupervised by any Staff Personnel.

26). JayCees, Red Cross, and other Civic organizations in DoRC Institutions are permitted to elect their own leaders from among their Membership, and these elected leaders essentially run the meetings and other functions, supervised by a Staff volunteer.

27). The Holy Bible, the Holy Koran, and numerous other Religious Texts available to inmates of the DoRC depict incidents of violence and/or advocate violence in the body of their texts.

28). PCI holds no Religious Services that cater to the Religious Beliefs of Plaintiffs herein.

29). Plaintiffs have asked for, and been denied, Religious Services for their respective Religions.

30). PCI, through the Inmate Library, allows inmates access to a wide variety of Religious materials, including Christian, Islam, Buddhist, Zen, Tao, and other materials.

31). PCI has no material in its Library relating to the Religious Beliefs of Plaintiffs herein, except minor information in Encyclopedic-type materials, some of which gives misinformation about Plaintiffs Religious Beliefs

that is repugnant to Plaintiffs Religious Beliefs, and Inflammatory.

32). Plaintiffs have asked for, and been denied, access to specific materials relating to Plaintiffs Religious Beliefs in the Library.

33). Plaintiffs have asked for, and been denied, access to specific materials to be given them, personally, relating to their respective Religious Beliefs, such as the Institution provides Holy Bibles and Holy Korans for inmates of Christianity and Islammic Faith Groups.

34). PCI allows inmates to receive Religious/Inspirational Literature from outside the Institution sources.

35). the PCI Religious Services Department distributes various Religious/Inspirational Literature of Christian, Islammic, and other Faith Groups to members of the PCI Population.

36). The PCI Religious Services Department provides Plaintiffs no Religious/Inspirational Literature relating to their respective Religious Faith Groups.

37). The PCI Mailroom routinely Withholds for Screening as "Inflammatory" Religious/Inspirational Literature relating to Plaintiffs' respective Religious Faith Groups, while routinely permitting – without Screening – literature relating to Faiths such as Christianity, Islam, etc.

38). Plaintiffs Religious/Inspirational Literature Withheld by the Institutional Mailroom has, when Withholding has been Appealled, been Withheld by DoRC Officials for periods of up to eleven (11) months before Review has been completed.

39). Plaintiffs have filed Grievances through the Institutional Grievance procedure relating to their assertations of Religious Freedoms, and have exhausted all available remedies – in some instances *several times* – in seeking redress at the Institutional level.

FIRST COMPLAINT

40). Plaintiffs incorporate herein by this reference, as if fully rewritten, the facts alledged in paragraphs one (1) through thirty-nine (39), above.

41). Plaintiffs have attempted to access Literature necessary to the proper Practice of their respective Religions, and have suffered in the following:

A). FIRST WITHHOLDING

1). Plaintiff Cutter did, as an act of the assertation of his Religious Faith, on or about September 21, 1995, in compliance with DoRC Policy 309-05, order by mail the following four (4) books:

The magician's Workbook

Of Witches

The Ritual Book of Magic

The book of Black Magic

2). On or about October 6, 1995, cutter was called to the Institutional "Vault" on a "package pass." When Officer Van Blankenship noted the titles of the books being received, he caused these books, which were mentioned by title in paragraph 41(A)(1), above (hereinafter "Books"), to be sent to Chaplain Lowery for Review, in violation of O.A.C. 5120-9-19.

3). On or about October 22, 1995, Cutter was again called to the Vault, where Officer Blankenship attempted to have Cutter mail the Books out of the Institution, under orders from Lowery per an October 13, 1995, Inter-Office Communication ("Memo"), in violation of O.A.C. 5120-9-19. Cutter refused to send the Books out until they were properly Screened under O.A.C. 5120-9-19, and was granted delay in mailing until he could confer with Inspector of Institutional Services (hereinafter "IIS") D. McSavaney.

4). On or about October 23, 1995, Cutter met with Mrs. McSavaney, who called the Vault and ordered the Books be returned to the Mailroom for processing in accordance with O.A.C. 5120-9-19.

5). On or about October 27, 1995, Cutter received "Notice of Withholding: Printed Material" (hereinafter "Notice") for each Book, from Officer Blankenship, who had checkmarked boxes for "Inflammatory" and "'incites, aids or abets "violence" against other' "on the Notice for "The Ritual Book of Magic," and the box for "Inflammatory" only for each of the other three (3) Books. Each Notice, under "examples of . . . " stated "per Chaplain Lowery . . . " certain pages "constitutes a clear and present danger to the security and safety of the, institution."

6). On or about October 31, 1995, Cutter sent these Notices to IIS McSavaney, checking the box for "request review" of the material, while submitting four (4) pages of wrtitten objections and argument to the Withholding of this Religious material.

7). On or about November 17, 1995, Cutter received revised Notice for each Book, each Notice dated November 11, 1995, each marked "For clarification purposes," and each checkmarked as "Inflammatory"

and "'aids, incites or abets "violence" against other.'" Each Notice had quotes, under "examples of . . . " that were taken directly from Lowery's Memo of October 13, 1995, mentioned in paragraph 41(A)(3), above.

8). Lowery was, during the time period of apprximately October 1, 1995, to December 1, 1995, one (1) of three (3) members of the PCI Publication Screening Committee, thereby denying Cutter a fair and impartial Review of the initial Withholding.

9). Despite the admonishment in O.A.C. 5120-9-19(F)(1) that Review is to be "within five working days . . . after reciept of printed material . . . " Cutter was not given Decision of the PCI PCS until on or about June 21, 1996, when Cutter was passed to see Mrs. Deborah Timmerman-Cooper, Acting IIS due to the promotion of former IIS McSavaney. Mrs. Timmerman-Cooper showed Cutter the Books, stated they were deemed "Inflammatory" by the PCI PSC, and allowed Cutter to appeal that Decision to the COPSC (DoRC Central Office Publication Screening Committee) by signing Decision on Withholding (hereinafter "Decision") for each Book, requesting Review.

10). On or about September 18, 1996, Cutter received a form letter dated September 6, 1996, for each Book, stating that " . . . it has been determined by the Publication Screening Committee and the Director of the Department of Rehabilitation and Correction that . . . " each Book " . . . was found to be INFLAMMATORY as defined by Administrative Regulation 5120-9-19." Each form letter was designated to be from the "Publication Screening Committee," "Legal Services, Coordinator," and each form letter carried initials known to be those of Rita K. Panzone, an Employeee of DoRC Legal Services.

11). Having exhausted his available remedies in this matter, Cutter thereafter contacted new IIS Jim Erwin and timely mailed the Books out of the Institution at his expense.

B). SECOND WITHHOLDING

1). On or about May 24, 1996, Cutter did, as an act of the assertation of his Faith, in compliance with DoRC Policy 309-05, order by mail the book "The Satanic Bible" by Anton LeVey.

2). On or about June 13, 1996, fellow Satanist James Barnes related to Cutter that he (Barnes) had overheard a conversation between PCI EMployees Acting IIS Timmerman-Cooper, Nancy Holt, and Annette Chambers, wherein Barnes heard Mrs. Timmerman-Cooper stating that she had to form a Screening Committee to review a Satanic Bible.

3). On or about July 30, 1996, not having received his Satanic Bible and having sent a letter of inquiry, Cutter received a letter from Serpent's Occult Bookstore indicating that the Satanic Bible ordered had been mailed to Cutter May 28, 1996, and had not been returned to the Bookstore.

4). On or about August 9, 1996, Cutter received kite response from Lt. J. Reliford of the PCI Mailroom indicating that no reciept of a Satanic Bible had been noted in the Mail Office Logs.

5). On or about August 14, 1996, Cutter took Barnes, the letter referenced in paragraph 41(B)(3), above, and the kite response from Lt. Reliford to IIS Erwin to have the Satanic Bible found.

6). On or about August 26, 1996, Erwin called Cutter to the Office of the IIS to report that the Satanic Bible had been "found," but Erwin refused to give details of the investigation to Cutter.

7). On or about August 30, 1996, Cutter received a Decision form signed by Erwin indicating that, on August 26, 1996, Erwin found the Satanic Bible to be "Inflammatory," as it "'incites, aids or abets "violence" against others.'" Cutter sent an Informal Complaint to Erwein regarding the violation of the O.A.C. by denying Cutter a Review through the Mailroom before making Decision in the Office of the IIS.

8). On or about September 23, 1996, Cutter received a copy of the Decision referenced in paragraph 41(B)(7), above, with the addition of Lt. J. Reliford's signature above that of Erwin. Such Action still denied Cutter one (1) level of Review of the three (3) supposedly available.

9). Cutter, however, timely returned this Decision form, requesting Review by the COPSC, enclosing a letter giving argument against Withholding.

10). On or aobut January 21, 1997, Cutter filed Grievance with Erwin regarding the failure of the COPSC to adhere to O.A.C. 5120-9-19(G)(1) by not reviewing the Material "within twenty business days." Erwin answered this Grievance to the effect that the material was being reviewed by the COPSC and that answer would be given when the Review was completed, failing to answer the specific complaint of filaure to adhere to the time limits in the Statute.

11). On or about February 4, 1997, Cutter received a form letter purportedly from the COPSC, carrying the initials known to be those of Rita K. Panzone, stating that the Satanic Bible was being denied Cutter "based upon prior screening," thereby indicating that this material was not given a fair and adequate

Review which took into account Cutter's objections to the Withholding.

12). Cutter timely mailed the Satanic Bible out of the Institution at his own expense.

C). <u>THIRD WITHHOLDING</u>

1). Plaintiff LEE did, as an act of the assertation of his Religious Faith, on or about June 10, 1996, purchase through mail order the book "Wicca – The Ancient Way" (hereinafter "Wicca").

2). On or about July 30, 1996, having not received Wicca, and having conferred with Cutter about this, LEE noted Cutter's having received the letter referenced in paragraph 41(B)(3), above, and noted that said letter also indicated that Wicca had been mailed to LEE on June 23, 1996.

3). On or about August 12, 1996, in a meeting with Lowery, LEE inquired about Wicca, and was told by Lowery that he (Lowery) was called by the Mailroom when Wicca was received in June, 1996, and that he (Lowery) told the Officer calling to process Wicca in accordance with the O.A.C.

4) On or about August 14, 1997, LEE complained to Erwin about Wicca being missing, whereupon Erwin alleged that he would "look into it."

5). On or about August 26, 1996, LEE was called to Erwin's Office, shown Wicca, and told by Erwin that it was found "in my secretary's Office," Erwin also stating that he (Erwin) had "read part of it, it's pretty interesting." Erwin refused to give Wicca to LEE, showing an unsigned Notice, stating that it "has to be reviewed."

6). On or about August 29, 1997, LEE received the Notice referred to in paragraph 41(C)(5), above,

signed by Erwin to Withhold Wicca. LEE returned the Notice to Erwin with the Complaint that it was improper for Erwin to sign the Notice, as Erwin had admitted reading part of Wicca and therefore should know that it does not incite, aid or abet violence against others, also asking to have a Mailroom Employee Review Wicca and sign a Notice for Withholding, if appropriate.

7). On or about September 18, 1996, LEE inquired about the Notice for Wicca, and was told by Erwin that Wicca was "at the screening committee," despuite LEE not yet having received a proper Notice, and opportunity to submit objections to the Withholding. Erwin told LEE to submit any objections to him (Erwin), which LEE promptly did.

8). On or about October 22, 1996, LEE received a Decision signed by Erwin, alleging Wicca "'incites, aids or abets "violence" against others.'" This Decision also noted that one page "promotes secret cult," but makes no response to any objections submitted by LEE, nor does it explain how "promoting secret cult" could in any way "'incite[], aid or abet[] "violence" against others.'" LEE timely appealled this Decision to the COPSC, submitingfurther objecitons through Erwin.

9). On or about January 17, 1997, LEE, Filed Grievance 1-97-13, complaining that the Review of Wicca was taking far longer than the twenty working days allowed by O.A.C. 5120-9-19. In answering, Erwin merely acknowledged that Wicca was being Reviewed by the COPSC, without making any findings as to the reason(s) for the delay or when the Review would be completed. LEE timely appealed this Grievance response.

10). On or about March 10, 1997, LEE received a form letter purportedly from the COPSC, carrying no initials or signature, stating that " . . . it has been determined by the Publication Screening Committee and the Director of the Department of Rehabilitation and Correction that "Wicca" was found to be INFLAMMATORY as defined by . . ." the O.A.C. LEE timely contacted Erwin to mail Wicca to this Court, to be used as Evidence in this matter, but Erwin has refused to, stating that the Court is not on LEE's Visiting list, and therefore not one of hte options to whom LEE can mail this item.

11). LEE has Filed Grievance with the Chief Inspector's Office regarding Wicca's not being mailed to this Court by Erwin, and the Office of the Chief Inspector agrees with Erwin, that LEE may not mail this item directly to the Court to be used as Evidence in this matter.

12). LEE has no person or persons on his approved visiting list to whom he can mail this item and be reasonably assurred that they will mail it to the Court, nor may LEE be assurred that mailing Wicca back to the Book-store will make it available as Evidence in this matter.

13). Wicca is currently being held in the PCI Office of the IIS

D). <u>DENIAL IN LIBRARY AND HOUSING</u>

1). On or about July 12, 1996, LEE sent Informal Complaint to the Library, asking that the Library stock some books giving "details and practices of Rites and Ideals of the Wiccan Religion."

2). On or about July 16, 1996, the Complaint referenced in paragraph 41(D)(1), above, was returned, after having been forwarded to Lowery, who gave a

response that was not responsive to the request made.

3). On or about July 18, 1996, Cutter sent a kite to Lowery asking that Lowery give Cutter a Satanic Bible "since you give Christian Bibles away for free to anyone who wants one." This request was denied.

4). On or about July 23, 1996, LEE Filed Grievance 7-96-4, citing the "Lack of religious materials in the Library for Wicca, which impedes my learning about, and practicing Wicca . . ." Erwin answered that the "Library will accept requests for acquisition of materials."

5). On or about August 4, 1996, LEE requested Review by Erwin, under DoRC Policy 106-16, of the Library book "Encyclopedia of Occultism and Parapsychology," due to it "being inflammatory, due to its misinformation and denigration of my religious beliefs."

6). On or about August 8, 1996, LEE sent a kite to the Library, listing approxiamtely fourteen (14) books LEE wished the Library to order to further LEE's Religious Studies. This kite was responded to by Librarian Pavanaja Komma who, after consulting with Erwin, told LEE to "come to the Library and refer *Encyclopedia of Occultism and Parapsychology*," the same book LEE had already informed Erwin was denigrating to LEE's Religious Beliefs! This was a malicious act by Erwin to disrespect LEE's Beliefs.

7). On or about August 13, 1996, Erwin wrote a letter to LEE, indicating that the Review of the material requested in paragraph 41(D)(5), above, showed the material "is appropriate for inclusion" despite LEE's assertation that it is inflammatory and denigrating to LEE's Religious Beliefs.

8). On or about August 25, 1996, Cutter sent Informal Complaint to Alexander, asking to be provided with either a Satanic Bible or the Satanicon, either of which would satisfy Cutter's need for the central Religious Text of Cutter's Religion. Alexander's reply was not responsive to the issue.

9). On or about August 26, 1996, LEE sent Complaint to Carnein asking that specific books on Wicca be placed in the Library. This was answered that a "request for specific titles to be placed in the Library . . . will be considered . . ." This Informal additionally requested that "the Institution provide me with a personal copy" of a Wicca book, which Carnein declined to answer.

10). On or about September 3, 1996, LEE sent Informal to Alexander, asking to be provided with a copy of at least one Wicca book, the same as Christians are provided with Bibles, and asking that other books on Wicca be placed in the Library. This Complaint was answered by Lowery, who replied in a manner that was not responsive to the issue raised.

11). On or about September 16, 1996, Cutter Filed Grievance regarding not being given the central Religious Text of his Religion the same as other Religions are given theirs by the Institution. This Grievance was denied by Erwin, and thereafter Appealled by Cutter, but not answered by Chief IIS.

12). On or about September 18, 1996, LEE Filed Grievance asking to be given at least one (1) Wicca book, the same as Christians and others are given Bibles, Korans, etc., and also asking that books be placed in the Library Concerning Wicca. The request to be given a Text as other Religions are was denied by Erwin. The request for specific titles to be placed in the Library was not responded to by Erwin.

13). On or about October 16, 1996, L. C. Coval wrote a "Decision of the Chief Inspector" affirming all findings in Grievance 7-96-4.

14). On or about November 1, 1996, LEE sent a second Informal to Carnein listing the same books as in the Informal referred to in paragraph 41(D) above, asking if these titles had been reviewed for possible inclusion i the Library. This Informal was not answered.

15). On or about December 15, 1997, LEE, as part of Grievance 12-96-7, Complained about the Library not having stocked any of the Wicca books h (LEE) had requested be reviewed for inclusion. Erwin, in answering, sent LEE a copy of Carnein's August 29, 1996, answer to the Informal referenc in paragraph 41(D)(9), above, stating "Mr. Carnein has appropriately ans wered your concerns," ignoring the fact that the answer does not give th requested access, only implies consideration of it.

16). On or about February 9, 1997, LEE showed to Informal referenced in paragraph 41(D)(9), above, to Komma, and asked of any of the titles on t Informal had been ordered for inclusion in the Library, to which Komma answered that she didn't recognize any as having been ordered, therefore showing the lack of consideration for inclusion.

17). To date, October 23, 1997, none of the Titles LEE has requested be Reviewed for possible inclusion in the Library have been stocked.

E). <u>SERPENT's occult catalog</u>

1). On or about December 2, 1996, both LEE and Cutter received Notices o an unidentified item that supposedly "'incites, aids or abets "violence against others,'" as it is a "List of books that are not allowed

in the Institution." This Notice came from the Institutional Mailroom. Both LEE and Cutter asked Erwin to identify the material for them, and when Erwin identified it as a catalog from Serpent's Occult Bookstore, both LEE and Cutter requested Review of the Withholding.

2). On or abour February 3, 1997, LEE received Decision on Withholding indicating the catalog from Serpent's Occult Bookstore "'incites, aids or abets "violence" against other'" as it "contains a list of books that are not allowed in the Institution." Said Decision was signed by Erwin, who had previously claimed that Cutter did not request Review of this catalog on Cutter's behalf.

3). LEE, after timely appealing this Decision to the COPSC, has received a form letter from the COPSC stating that the Serpent's Occult Catalog is "Inflammatory," and therefore denied to LEE.

4). This Catalog is currently being held in the PCI Office of the ISS, awaiting its being used as evidence in this matter.

42). Plaintiffs have attempted to access Areas/Materials? accommodations necessary to the proper Practice of their respective Religios Beliefs, and have suffered through the following incidents:

A). <u>CUTTER'S ATTEMPTS TO PRACTICE</u>

1). <u>Worship space</u>

a). On or about May 1, 1996, Cutter, in the first contact initiated by himself, sent Lowery a kite requesting a place to observe the Rituals of his Religion. When this Kite had gone unanswered past the five (5) working days allowed, Cutter sent a second kite to

Lowery, requesting the same, this being on or about May 15, 1996.

b). On or about May 16, 1996, Cutter received a Memo from Lowery, stating that the initial kite mentioned in paragraph 42(A)(1)(a), above, had been forwarded to Alexander and Carnein, while the second kite mentioned in said paragraph had been forwarded to Schwarz for Schwarz action thereupon.

c). On or about June 9, 1996, Cutter sent a letter to Schwarz, again making request for space to worship, and outlining materials and scheduling needed to accommodate this request.

d). On or about June 20, 1996, Cutter received letter from Schwarz answering Cutter's letter of June 9, 1996, telling Cutter to work with Lowery, but not giving specific approval or denial of Cutter's requests.

e). On or about June 28, 1996, Cutter met with Lowery to File a "Request for Accommodation of Religious Practices" (hereinafter "Request"), out-lining basic tenets and requirements of Cutter's Faith Group.

f). During the meeting referenced in paragraph 42(A)(1)(e), above, Lowery Policy 106-16, of the Library book "Encyclopedia of Occultism and Parapsychology," due to it "being inflammatory, due to its misinformation and denigration of my religious beliefs."

6). On or about August 8, 1996, LEE sent a kite to the Library, listing approxiamtely fourteen (14) books LEE wished the Library to order to further LEE's Religious Studies. This kite was responded to by Librarian Pavanaja Komma who, after consulting with Erwin, told LEE to "come to the Library and refer *Encyclopedia of Occultism and Parapsychology,*" the

same book LEE had already informed Erwin was denigrating to LEE's Religious Beliefs! This was a malicious act by Erwin to disrespect LEE's Beliefs.

7). On or about August 13, 1996, Erwin wrote a letter to LEE, indicating that the Review of the material requested in paragraph 41(D)(5), above, showed the material "is appropriate for inclusion" despite LEE's assertation that it is inflammatory and denigrating to LEE's Religious Beliefs.

8). On or about August 25, 1996, Cutter sent Informal Complaint to Alexander, asking to be provided with either a Satanic Bible or the Satanicon, either of which would satisfy Cutter's need for the central Religious Text of Cutter's Religion. Alexander's reply was not responsive to the issue.

9). On or about August 26, 1996, LEE sent Complaint to Carnein asking that specific books on Wicca be placed in the library. This was answered that a "request for specific titles to be placed in the Library . . . will be considered . . . "This Informal additionally requested that "the Institution provide me with a personal copy" of a Wicca book, which Carnein declined to answer.

10). On or about September 3, 1996, LEE. sent Informal to Alexander, asking to be provided with a copy of at least one Wicca book, the same as Christians are provided with Bibles, and asking that other books on Wicca be placed in the Library. This Complaint was answered by Lowery, who replied in a manner that was not responsive to the issue raised.

11). On or about September 16, 1996, Cutter Filed Grievance regarding not being given the central Religious Text of his Religion the same as other Religions are given theirs by the Institution. This Grievance

was denied by Erwin, and thereafter Appealled by Cutter, but not answered by Chief IIS.

12). On or about September 18, 1996, LEE Filed Grievance asking to be given at least one (1) Wicca book, the same as Christians and others are given Bibles, Korans, etc., and also asking that books be placed in the Library concerning Wicca. The request to be given a Text as other Religions are spoke words to the effect of "the Department is not going to give you a room. or any other items due to Security reasons," thereby indicating that a decision had been made to deny Cutter the Space and materials currently being requested *before* Cutter officially Filed the request and made known the Accommodations being requested. Lowery further answered, when Cutter asked about receiving Satanic literature, with a shrug and words to the effect that "you're between a rock and a hard spot," also stating to the effect that "I'm doing everything I've been instructed to by Dr. Schwarz."

g). On or about August 16, 1996, Cutter sent a kite to Lowery asking if a disposition had been made on the Request Filed June 28, 1996. Lowery's answer of August 22, 1996, was that this was "being reviewed by the Dept.'s legal counsel who handles [these] matters." However, this written answer is contrary to Lowery's June 28, 1996, statement to Cutter indicating that a Decision on this matter had already been made.

h). On or about September 24, 1996, Cutter Filed GRievance 9-96-8 with Erwin regarding the continued failure to receive an answer to the Request Filed June 28, 1996. Erwin's answer was that new "guidelines for recognizing and accommmodating religious practices . . . are scheduled to be released to Staff on 10/8/96. After that date, the Grievant may meet with the

Institutional Chaplain to find the decision to his request."

i). On or aobut September 30, 1996, Cutter sent Lowery a kite informing Lowery of Cutter's recent acceptance for Membership in the Blackstar Church. Lowery advised Cutter to change his Religion of preference through Cutter's Case Manager.

j). On or about October 22, 1996, Cutter sent Lowery a kite requesting to read or purchase a copy of the new guidelines promised by Erwin in answering Grievance 9-96-8 (paragraph 42(A)(1)(h), above), and asking if these guidelines allow any of the previous requests Cutter had made. Lowery responded by telling Cutter to contact Schwarz.

k). On or about November 3, 1996, Cutter sent another Kite to Lowery, referencing Grievance 9-96-8, which directed Cutter to contact Lowery regarding these Guidelines. Lowery again responded that he could not answer Cutter's requests.

l). On or about November 11, 1996, Cutter Filed Grievance 11-96-16 regarding the failure of Schwarz to respond to the Request made in paragraph 42(A)(1)(e), above, and for failing to provide the Guidelines promised for October 8, 1996. Erwin responded by stating that he (Erwin) would sped a new Request to Schwarz, as his contact with Schwarz was to the effect that Schwarz "stated that he would review a new Request for accommodation of religious practices and make a determination." Erwin did not respond to Cutter's Complaint of the inavailability of the Guidelines promised for October 8, 1996.

m). Cutter thereafter sumitted a new Request to Erwin, which Erwin claims was sent to Schwarz on December 12, 1996.

n). On or about February 7, 1997, Cutter inquired of Erwin as to the status of the Request sunmitted December 12, 1996, which still had been unanswered. Erwin responded by stating words to the effect that "I cannot force Dr. Schwarz to answer," without making further effort in Cutter's presence to determine the status of the Request. As a result of this continued failure to answer the Request, Cutter Filed a delayed Appeal on Grievance 11-96-16 (See Exhibit 22(a), Supplemental Appendix), which has gone unanswered to date, despite that the Chief Inspector's Office twice sent letters to Cutter regarding extensions of the time limits allowed for answering.

o). On or about May 31, 1997, mistakenly believing that he had failed to Appeal Grievance 11-96-16, Cutter Filed a second delayed Appeal on this matter, which to date still has not been answered.

p). Still to date, Cutter has not been given an answer to his Requests, the two (2) Appeals of Grievance, nor has Cutter been given a place to Practice the Rites of his Religion *or* the Guidelines supposedly promised for October 8, 1996.

2). Access to Tools for Worship

a). In the letter referenced in paragraph 42(A)(1)(c), above, written to Schwarz, Cutter outlined the bare necessities needed for Cutter to Practice the Rites of his Religion if Space were provided, which were ". . . a bell, a chalice, black robes, black candles, sword, altar, and a gong." Admitting that a "sword" would be a Security concern, Cutter stated that "it can be substituted with a broom handle," adding that "I also need a necklace, cor ceremonies and to display my faith in the same manner as rosaries are displayed. The necklace shall bear an inverted cross or symbol of Baphomet." Schwarz' answer was to "work with

Chaplain Lowery," who had already passed the issue along to Schwarz, as evidenced by paragraph 42(A)(1)(b), above.

b). In the Request Filed with Lowery June 28, 1996, Cutter identified the bare necessities for the Practice of his Rites as roughly the same ones as listed in paragraph 42(A)(2)(a), above.

c). In a kite of September 30, 1996, Cutter again asked Lowery for permission to order a Pentacle Medalloin with neck chain. Cutter's Files do not contain a response to this Kite.

d). Within Grievance 11-96-16, Cutter submitted another Request to Schwarz, through Erwin, asking for roughly the same items as listed in paragraph 42(A)(2)(a), above, with the addition of a Satanigram Pendant due to Cutter's initiation into the Blackstar Church.

e). Cutter has received no response from Schwarz concerning these requested items to date, nor answer to two (2) Appeals of Grievance 11-96-16.

f). In the Kite to Lowery of October 22, 1996, Cutter had requested permission to order a Pentacle pendant, which Lowery answered that would be responded to after new Guidelines were handed down on October 8, 1996. To date Cutter has still not received a response to this request, nor access to the new Guidelines, from Lowery or other person(s).

3). Additional Withholding

a). On or about October 23, 1996, Cutter received a Decision on Withholding form from Erwin indicating that a "catalog Samuel Weiser Inc. '96" was found to be "Inflammatory," as it "'incites, aids or abets "violence" against others;" while the examples portion of

the Decision form merely indicates that the material was Withheld because of it being "occult material." Cutter timely appealled this Decision to the COPSC.

b). Cutter thereafter received a Form letter purportedly from the COPSC, dated March 4, 1997, indicating that the Samuel Weiser catalog 1996 was found to be INFLAMMATORY" by both the COPSC and the Director of the Department of Rehabilitation and Correction. This Form letter was not signed or initialled by any persons or entities.

c). Cutter has received, since March 4, 1997, the Samuel Weiser 1997 catalog, as well as several Samuel Weiser catalog supplements, none of which have caused him to "incite, aid or abet violence against others," thereby showing that the Withholding of the Samuel Weiser catalog for 1996, which is the same in form and layout to the 1997 catalog, is an exaggerated response to legitimate prison concerns, as well as a blatent attempt by a Christian majority of DoRC Personnel to suppress material not of their Religious Beliefs.

d). Cutter has attempted to mail the Samuel Weiser 1996 Catalog to this Court to be used as Evidence in this Action, but Erwin has refused to mail said Evidence to this Court due to the fact that the Court is not on Cutter's Visiting List, constituting an infringement upon Cutter's Right of Access to the Courts, as Cutter has no reliable means of having this Catalog Mailed to Court except directly from the Institution.

e). Cutter has Grieved this matter to the Chief Inspector's Office as required and allowed by O.A.C. 5120-9-31, and the Chief Inspector has upheld Erwin's Decision to not allow Cutter to mail the supposedly contraband item directly to the Court.

B). <u>LEE'S ATTEMPTS TO PRACTICE</u>

1). <u>Haircut Issue</u>

a). On or about July 9, 1996, there were at least two (2) inmates of Native American Heritage in PCI to whom the PCI Administration had given Accommodation to, allowing these Native Americans to grow their hair longer than the established "Regulation" due to their Religious Beliefs.

b). It is among LEE's deeply held Religious Beliefs that his hair is a Gift from the Goddess, and is not to be cut, except upon the Death of a Loved one or during Religious Rituals.

c). LEE did, on or about July 9, 1996, send an Informal Complaint to Alexander, informing Alexander that his (LEE's) sincerely held Religious Beliefs carried a prohibition against cutting his (LEE's) hair. LEE informed Alexander that this prohibition could be satisfied by allowing LEE to grow only a "queue" of hair.

d). On or about July 17, 1996, LEE recieved back the Informal referenced in paragraph 42(B)(1)(c), above, with an answer from Alexander that was not responsive to the sisue raised.

e). On or about July 23, 1996, LEE Filed Grievance 7-96-4, alleging, among other items, that "I am not being afforded opportunity to observe my deeply held Religious Beliefs without being threatened with Disciplinary Action." LEE further noted that "I expect that I will recieve permission to adhere to my deeply held Religious Beliefs, and will not be force to cut my hair in the future, since the Institution has made this same accommodation for at least two (2) inmates of American Indian Heritage . . . [and] . . . better treatment of one Religion shows that the restriction on

another's Faiths are not necessary to serve a compelling government interest."

f). On or about July 23, 1996, LEE showed Erwin two (2) braids of hair, approximately 8" and 11" long, that LEE had grown in secret violation of Institutional Regulations in the past, in order to satisfy LEE's Religious Faith.

g). On or about July 30, 1996, LEE received answer from Erwin to Grievance 7-96-4, which stated that LEE should meet with Lowery "'in regard to "request for Accommodation of Religious Practices"'" (hereinafter "Request").

h). On or about August 12, 1996, LEE met with Lowery for an Interview to File said Request, and to have his (LEE's) proper Religion of Preference noted in Institutional Files as "Wicca." During this Interview, LEE informed Lowery of hte nature of his (LEE's) deeply held Religious Beliefs, including that he (LEE) had the proscription against cutting his (LEE's) hair.

i). On or about August 13, 1996, LEE received a MEmo from Lowery stating that "your request to practice the Wiccan Religion *cannot* be permitted," due to a Memorandum of June 20, 1991, regarding a Study to be performed on the nature of Wicca at Orient Correctional Institution.

j). On or about September 1, 1996, during a session where LEE was being harassed and disciplined for daring to grieve Officer misconduct, LEE was asked by Captain Pringle if his (LEE's) hair was "Regulation" length. LEE told Pringle that it was not, and explained the Request Filed August 12, 1996. Pringle, after checking with Lowery, ignored Lowery's statement that "it is against Departmental Policy to cut anyone's hair

who's claiming Religious reasons until that lawsuit is settled." Pringle, however with animus to punish LEE further, confers privately with Lowery, then returns to tell LEE "go back to your Unit, report to Sgt. Carter, and get your hair cut. That's a direct order." LEE obeyed the order given.

k). On or about September 15, 1996 LEE Filed Grievance 9-96-3, alleging, among other items, that Pringle's actions of September 1, 1996, related in paragraph 42(B)(1)(j), above, were in knowing, malicious, wanton and itentional violation of LEE's First Amendment Rights. Erwin, in answering, while acknowleging that Pringle did order LEE to cut his hair, denied that there was any impropriety to the Action. LEE Appealled this Resolution of Grievance to the Chief Inspector's Office, and, on or about January 19, 1997, Menedez and Coval together signed a "Decision of the Chief Inspector" upholding Erwin's findings.

l). In answering Grievance 12-96-5/12-96-7, Coval and Menedez together stated "[a]ccording to Policy, all inmates shall conform to the department's grooming policy as stated in administrative rule 5120-9-25 . . . [y]ou will not be granted permission to grow a queue." Due to the blatent nature of this lie, On or about May 3, 1997, LEE sent, uning a Notification of Grievance form, a Complaint to Director Wilkinson, stating that "I have noted . . . that there have been at least five (5) Native American inmates in this Institution over the past two years who have been allowed the accommodation to grow their hair in accordance with their Religious Beliefs . . . and please allow me to grow my hair in accordance with my religious beliefs." This Complaint has never been answered by the Director, Wilkinson.

m). On or about October 9, 1997, LEE sent a Notification of Grievance to the Chief Inspector's Office

regarding the Director, Wilkinson, having failed to answer this Complaint submitted to his Office as noted in Paragraph 42(B)(1)(l), above. LEE has not received an answer from the Chief Inspector's Office regarding this matter.

n). On or about May 11, 1997, an Officer noted the length of LEE's hair, and claims to have ordered LEE to get a haircut. LEE did not hear such order, but was later called to the PCI A-Unit Security Office to see Sgt. Rick Stallins, who, after reviewing matters Filed in this Court, including LEE's Motion for temporary Restraining Order, did give LEE Direct Order to cut his (LEE's) hair. Sgt. Stallins at that time acknowleged that the Institution gives Native Americans Accommodation to grow their hair in accordance with their Religious Beliefs, and knew, or reasonably should have known, from reading paperwork Filed in this Matter (Case #C2-97-382) that LEE shwoed him, that is is against LEE's deeply held Religious Beliefs to cut his hair.

2). Worship Space

a). On or about October 9, 1996, LEE made verbal request of Lowery that Lowery provide LEE with space in which to Practicethe Rites of LEE's Religion. Lowery told LEE words to the effect of "Kite your Unit Manager, I can't authorize space in the Unit for you," despite that LEE had asked for any space available, not just in the Unit.

b). On or about October 10, 1996, LEE sent Informal Complaint to Unit Manager Perkins, outlining the need for space in the Unit for LEE to Practice the Rites of Wicca, and asking for accommodation in that regard. The request for a bed move to a specific area proven to ahve the necessary space was denied, while

the request for any other space was not responded to by Perkins.

c). On or about October 21, 1997, LEE Filed Grievance 10-96-12, asking for either a bed move to the area proven to ahve sufficient space for the Practice of hte Rites of Wicca, or the use of a private room when necessary for the Practice of Rites. This request was denied, and, on Appeal to the Office of the chief Inspector, was affirmed by K. L. Brown.

d). On or about December 1, 1996, LEE again requested space from Lowery to Practice the Rites of Wicca, requesting nothing "but the space, at least 9½' across, and your supervision, during the days of the Full Moon and the Days of Power, of which the next is December 21, 1996." Lowery denied this request.

e). On or about December 8, 1996, LEE requested that Lowery, himself, "hold a Yule Celebration for the Church of Wicca after sundown on December 21, 1996 . . ." LEE further noted that "this is to accommodate your *order* that I may not lead or perform such Rites myself."

f). On or about December 11, 1996, LEE Files Grievance 12-96-5, requesting the PCI "Institution Chaplain make arrangements for a Religious Leader from the Wiccan Church . . ." be allowed to perform Services fior LEE, in order to accommodate LEE's Religious Beliefs. Erwin denied this request as "contrary to DR&C Directive . . ."

g). On or about December 15, 1996, LEE Filed Grievance 12-96-7, asking that "the Chaplain's Office asssist me in contacting a local Coven to assist me in my workship if [Lowery] still refuses to allow Wicca Services or to perform them himself . . ." This request was denied by Erwin.

h). LEE has appealled Grievances 12-96-5 and 12-96-7 to the Office of the Chief Inspector, and, on or about April 14, 1997, Response was given by said Office that denied nearly all of LEE's requests made in these two (2) Grievances.

3). Tools to Practice

a). During the Interview with Lowery on or about August 12, 1996, LEE identified several items necessary for the PRactice of Wiccan Rites. These were Runes, salt, a Wand (for which a polished tree branch would do, after being consecrated through purification), a Pentacle, Herbal Teas, and a Quartz Crystal.

b). On or about October 1, 1996, LEE sent a kite to Lowery requesting "permission to order a Pentacle w/chain." Lowery's naswer was that "you will receive an answer after October 8, 1996. ODRC Religious Services Admin. will address your request."

c). On or about November 1, 1996, LEE Sent a letter to Schwarz, inquiring about hte disposition of the Request Filed, as in paragraph 42(B)(1)(h), above, to which LEE has still never received a response from Schwarz, and LEE included in said letter a statement that he (LEE) had "not been allowed to purchase a Pentacle to wear as Christians are allowed their crosses."

d). Schwarz' answer to the letter referenced in paragraph 42(B)(3)(c), above, infomed LEE that "Inmates should be able to wear a religious medal around their necks as long as it conforms to the size and value limits set . . ."

e). As a result of Schwarz' answer referenced in paragraph 42(B)(3)(d), above, LEE sent a kite to Lowery on or about December 8, 1996, asking for the "size specifications for religious medallions and/or rings

. . ." Lowery's answer of December 9, 1996, was "per the Warden, a *Pentacle* medallion will not be permitted at P.C.I. Since it is symbolic of Wiccan religious practices, which are not permitted per Central Office."

f). On or about December 15, 1996, LEE Filed grievance 12-96-7, Grieving, among other items, that "I have . . . been refused permission to purchase and have a Pentacle, although others may receive all the crosses they want." Erwin's answer was that the "Pentacle as a religious medallion is not permitted as it is symbolic of Wiccan Religious practices which are not permitted as explained . . ." previously. LEE timely Appealed this issue to the Chief Inspector, and, over four (4) Months later, received the Grievance Response noted in previous paragraphs, above.

g). In August, 1997, LEE received in a Pentacle medallion that he, LEE, personally purchased form Abyss Distributors, and which, despite the holding of the Chief Inspector's Office in GRievance 12-96-5/12-96-7, PCI Officials, clearly in an attempt to deny LEE the Religious Freedoms to which he is entitled, attempted to have LEE return this item to the Sender as "contraband," and held this item for several weeks before finally permitting this item, clearly permitted.

h). On or about January 16, 1997, LEE sent another Informal to Alexander, alleging the need for "but a few items: The right to grow my hair, in line with the Order that the Goddess has given me; a Pentacle pendant to use as "focus" during prayer sessions; Salt, a quartz crystal, and a" wand, as well as "a few books on the Craft . . . the Chaplain to hold, or allow a Coven Leader into the Institution to hold, Services . . . and the continuation of vegetarian servings . . ." Alexander's answer was that "I have previously addressed

this issue and concur with Chaplain Lowery that your requests are contrary to DR&C Directives."

43). On or about February 12, 1997, Plaintiffs herein sent a multi-page letter to Dianne Walker, newly assigned Warden of Pickaway Correctional Institution, making claim that Plaintiff's Religious Beliefs and Religious Freedoms had been, and were being, violated by Actions of Warden Walker's predecessor and/or her subordinates, and asking for an interview on this matter.

44). On or about February 14, 1997, Plaintiff LEE was told by an inmate Mail Runner that said Mail Runner had delivered the letter referred to in paragraph 43, above, to Warden Walker's Office. This letter has not been answered by Warden Walker to date, nor have Plaintiffs been informed of any change in the status of their prior requests.

45). All actions, inactions, omissions, and or other denial of the Religious Accommodations that Plaintiffs have requested are exaggerated responses to otherwise legitimate Prison and/or Institutional concerns, i.e., some Defendants claiming "Security," and/or other legitimate penological objectives, are exaggerating their response to these legitimate concerns, as there is no proof, nor is there any indication, that allowing Plaintiffs the accommodations asked for will have *any* impact on legitimate concerns, as in allocations of prison resources, Security, et cetera. *Finally* allowing Plaintiff LEE a Pentacle Medallion has not harmed any penological objective in any manner, and allowing other Accommodations requested will have the same effect, not harming any legitimate penological objective in any manner.

46). As a result of the acts and/or omissions claimed in paragraphs Fourty (40) through Fourty-Five (45), above,

Plaintiffs have had a severe burden placed on the PRactice of their respective Religious Beliefs with no compelling Governmental interest at stake, and have been unable to Practice their respective Religious Beliefs.

47). As a result of hte acts and/or omissions claimed in paragraphs Fourty (40) through Fourty-Six (46), above, Plaintiffs have been irreparably harmed and have experienced severe emotional distress and harm.

FIRST CAUSE OF ACTION

48). Plaintiffs incorporate herein by this reference, as if fully rewritten, the facts alleged in paragraphs Fourty (40) through fourty-five (45), above.

49). Defendants, acting under color of State law have, by their Practices, customs, Policies and usages, subjected Plaintiffs to deprivations of their Federally-protected rights in violation of the First, Fifth, and Fourteenth Amendments to the United States Constitution, and under law.

50). Defendants, acting alone or in conspiracy,have denied Plaintiffs FReedom of Speech and of Religion, in violation of hte First and Fourteenth Amendments to the United States Constitution.

51). Defendants, acting alone or in conspiracy, have denied Plaintiffs Equal Protection of the Laws, in violation of hteFifth and Fourteenth Amendments to the United States Constitution.

52). Defendants, acting alone or in conspiracy, have denied Plaintiffs Due Process of the Law, in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

53). Defendants, acting alone or in conspiracy, have denied Plaintiffs concurrent State Constitutional rights under the Ohio Constitution, Statutory Laws, and accompanying Administrative Regulations as promulgated by the Joint Committee on Agency Rule Review as the Ohio Administrative code, as well as rights Granted under Defendants own Policies, through their acts and/or omissions.

SECOND COMPLAINT

54). Plaintiff incorporates herein by this reference, as if fully rewirtten, the facts alleged in paragraphs one (1) through Twenty-one (21), above.

55). Plaintiff LEE alleges infringement upon his right to Petition the Government for a redress of Grievances, in that Plaintiff LEE has been harassed, subjected to Security Control and Shakedown, and given false Disciplinary Reports for the assertation of his (LEE's) First Amendment Right to Grieve. False Disciplinary Reports given an inamte in retaliation for asserting the Right to Grieve violate that inmate's rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution, and represent a significant and atypical deprivation that may serve to increase the sentence an inmate serves, while other retaliations serve to chill the rights not only of the inmate receiving the retaliation, but the assertations of other inmates, through fear of experiencing retaliation themselves.

56). Plaintiff LEE alleges retaliation in the following incidents:

1). On or about September 14, 1997, Plaintiff LEE experienced retaliation for asserting the First Amendment right to assist other inmates in the First Amendment Forum to wit:

a). At approximately 8:00 P.M. on September 14, 1997, LEE observed Correctional Officer Chad Van Sickle shaking down other inmates in LEE's Housing Area. When Officer Van Sickle shook-down one inmate Brewer, who was not present, LEE heard Officer Van Sickle tell other inmates in the area to tell Brewer that "his area checked out o.k.," or words to that effect.

b). Officer Van Sickle then shook-down LEE's bunkmate, stating "I only need one more" to fulfill the required quota.

c). When inmate Brewer returned to his Lock shortly after, he found that Officer Van Sickle had put Brewer's neighbor's wet shower-shoes in Brewer's Locker, atop some clean clothes. Angered, Brewer sought out Officer Van Sickle to Complain.

d). Several minutes after seeing Brewer leave to complain to Van Sickle, Van Sickle returned to the area with Brewer, stating words to the effect that "since you want to complain, let's take your locker downstairs so I can give it a thorough shake-down." Because of Brewer's having been told Van Sickle's earlier statement of Brewer's area having "checked out," Brewer argued with Van Sickle.

e). In order to assist his fellow inmate, LEE quietly told this inmate, Brewer, to comply with the Officer, and "I'll help you write him up later." Officer Van Sickle heard LEE tell Brewer this.

f). Officer Van Sickle then, after more arguing, got Brewer to submit to a further shake-down.

g). Officer Van Sickle, after finishing with Brewer, then came to LEE's Lock, and told LEE to open his (LEE's) locker, to be shaken-down.

h). Officer Van Sickle, having earlier said that Brewer's Area "checked-out," clearly was acting in retaliation when shaking down Brewer the second time.

i). Officer Van Sickle, having earlier stated that he "only need[s] one more" shake-down to fulfill quota, and having left the Housing Area after having completed one more shake-down, clearly was acting in retaliation against LEE for LEE's having offered to assist Brewer to "write him up later."

j). Officer Van Sickle was, at the time of the Shakedown, in violation of several DoRC Rules, Regulations, Policies, and Procedures, but has received no Disciplinary Action against him, despite LEE's having Grieved this matter fully.

k). LEE has Filed Informal Complaint on this matter, as well as a Formal Grievance, and has appealed the Grievance response.

i). Sgt. William Coleman, the Hearing Officer mentioned in paragraph 56(2)(g), above, verbally dropped the charge of "Threats," stating that he could find nothing on the face of the Conduct Report that would constitute a threat, except a threat of legal action, which Sgt. Coleman said LEE is allow to make; Sgt. coleman then re-raised said charge of Threats after LEE continued objecting to a finding of guilty on the charges of disrespect and disobedienece, and

Sgt. Coleman then sent all three (3) charges to the Institutional Rules Infraction Board for a Hearing on the matter, stating that he hadn't done "hearing Officer duties for about two years, so I don't know what I'm doing," or words similar to those.

j). On or about September 26, 1996, LEE appeared in front of the Institutional Rules Infraction Board (hereinafter "RIB"), which was being at that time Chaired by one Captain Ron Hobbs, Defendant in the Action of *LEE v. Hobbs,* Case C2-95-821, which was before this Court and was then before the Sixth Circuit Court of Appeals.

k). Before the RIB Hearing mentioned in paragraph 56(2)(j), above, LEE further heard Board Member Sgt. Whers make the comment to Hobbs that "we're going to get sued, aren't we?"

l). Prior to the Hearing beginning, LEE asked both Hobbs and Wehrs to recluse themselves for bias. Hobbs refused to for both himself and Sgt. Wehrs, who did not respond.

m). Under O.A.C. 5120-9-06(G), "[n]o inmate shall be found guilty of a violation of a rule of conduct without some evidence of the commission of an act and the intent to commit the act."

n). No Evidence was presented to the RIB that LEE intended to commit the acts of Disrespect, Disobedience, or Threats, and witnesses brought before the RIB actually stated that there was some evidence that the Officer was not truthful in his allegations, through implication of witness statements that refuted the Officer's statements.

o). LEE was found Guilty by the RIB without there being any evidence of the intent to commit

the acts, and no evidence of having committed the acts charged.

p). LEE Appealled the Guilty verdicts through all channels available, and has had the Guilty verdicts affirmed through appeal.

1). Officer Van Sickle has followed, stared at, and – to other inmates – called LEE abusive names when LEE has been doing Legal Work for other inmates, in retaliation and in an attempt to intimidate LEE for asserting LEE's right to assist fellow prisoners in Legal matters.

2). On or about September 1, 1996, LEE experienced retaliation for asserting his First Amendment right to verbally grieve Officer misconduct, to wit:

a). On or about September 1, 1996, LEE verbally grieved an Officer smoking a cigarette in a non-smoking area, to that Officer.

b). Officer J. Leisure, the Officer mentioned in paragraph 56(2)(a), above, became abusive towards LEE, followed LEE to LEE's Housing area, and attempted to instigate an argument with LEE.

c). After several minutes of conversation, witnessed by at least two (2) other inamtes, Officer Leisure handcuffed LEE and escorted LEE out of the Housing Area.

d). LEE was thereafter placed in Security control for a period of approximately six (6) hours by Captain Pringle who maliciously took this actionto punish LEE for asserting the right to grieve Officer misconduct to that Officer.

e). LEE was released from Security Control after approximately six (6) hours, and Captain

Pringle thereafter maliciously ordered LEE to cut his hair, in violation of LEE's Religios beliefs, as further punishment for LEE's asserting the right to grieve verbally.

f). LEE Filed Informal Complaint on the above actions, and further Filed Grievance on the above actions, as well as an Appeal of the grievance, to no avail.

g). On or about September 10, 1996, LEE was called to the Hearing Officer for his Unit, and shown a Conduct Report written by Officer LEisure on or about September 1, 1996, concerning the actions alleged in paragraphs 56(2)(a) through 56(2)(e), above.

h). LEE obtained written statements from inmate witnesses to show to the Hearing Officer concerning LEE's lack of guilt concerning the charges of Disrespect, Threats, and Disobedience of a Direct Order, which were the charges on the Conduct Report mentioned in paragraph 56(2)(g), above.

3). LEE further has suffered retaliation for asserting the right to verbally grieve matters in the Institution, to wit:

a). On or about February 9, 1997, LEE was called by an Officer to be "patted down" through hands-on search. The Officer who called LEE was a female Officer.

b). LEE was not sure that the Officer was talking to him, as there was another inmate in the area to whom the Officer could have been talking, but as LEE had noted a general shakedown of most inmates leaving the Dining Hall, LEE

approached a Male Officer present, and was searched.

c). Officer Ross, the famale Officer mentioned in paragraph 56(3)(a), above, then called LEE over to her, and asked LEE why he went to the male Officer, to which LEE responded that it is a "violation of D.R.& C. Policy 401-01 for a female Officer to shakedown male inmates."

d). Officer Ross then began accusing LEE of having "spit" on her. LEE, fearing a set-up due to LEE's litigitinous activities, quickly left.

e). At approximately 11:40 A.M., some five (5) hours after the approximately 6:50 A.M. time of the incident described in paragraphs 56(3)(a) through 56(3)(d), above, LEE was taken from LEE's Housing Unit in hand-cuffs and placed in Security Control, being served a Conduct Report for "Disrespect" and "Disobedience."

f). The Conduct Report mentioned in paragraph 56(3)(e), above, stated that LEE had disobeyed, a direct order and had purposely spit on Officer Ross at approximately 7:40 A.M. on February 9, 1997.

g). At an RIB Hearing on February 10, 1997, LEE was prepared to defend against a charge occurring at 7:40 A.M., and had called witnesses to testify as to his whereabouts at 7:40 A.M., while the RIB instead verbally changed the time of the Incident to approximmtely 6:55 A.M. without giving LEE opportunity to call witnesses to testify to matter in regards to that time frame.

h). LEE defended himself against the charges as best he could, once they were changed to a different time than orriginally charged,, and even

the RIB expressed incredulity that LEE had not been placed in Security Control at the time of the incident if LEE had truely spit on the Officer, as the Conduct Report claimed he had.

i). Despite that no evidence was presented that LEE had spit on the Officer – even expressing disbelief in the charge – the RIB found LEE Guilty of the charge of Disrespect, and, despite that LEE had not known that OFficer Ross was at first speaking to LEE, and despite the fact that LEE was shaken down, the RIB Found LEE Guilty of Disobedience of a direct order, apparently through not allowing Officer Ross to do so.

j). LEE has appealed this matter to the Office of the Warden, and after having to send several kites over a matter of months and then finally resort to the Grievance procedure, LEE finally received a copy of an Appeal response purported to have been made on February 14, 1997, which upheld the RIB Findings.

k). LEE questions the validity of this Document, as LEE remembers having a conversation with Williford Gilliland, Administrative Assistant to the Warden, on or about April 10, 1997, in which Mr. Gilliland complained to LEE that he was "far behind" in his (Gilliland's) work, and was "just now getting to RIB Appeals from February."

l). LEE has, however, Appealled this Appeal response to the Director of The Department of Rehabilitation, thus exhausting LEE's Appeals in this matter.

57). Both RIB Conduct Reports mentioned in sub-paragraphs to paragraph 56, above, were given in retaliation for LEE's efforts to verbally grieve violations and/or attempts to violate Institutional Rules, by Officers, while the Shakedown and other harassment mentioned in paragraphs 56(1)(a) through 56(1)(l), above, was taken in retaliation for LEE's attempt to assist other inmates in asserting their First Amendment Rights.

58). The Conduct Reports complained of in the sub-paragraphs to paragraph 56, above, may be taken into account by the PArole Board, which may result in a lengthening of LEE's sentence at his next Parole Hearing, and even thereafter, thereby amounting to a significant and atypical deprivation that an inmate should not have to endure as a result of his committment. At Furlough Hearing on or about October 6, 1996, LEE was specifically asked about "the last ticket you got," and was asked to explain the circumstances of said "ticket" to the Parole Board Member.

59). Both conduct Reports and the retaliatory harassment violate LEE's First Amendment Right to Petition the Government for a redress of Grievances, which amount to a significant and atypical deprivation that an inmate should not have to endure due to his incarceration.

SECOND CAUSE OF ACTION

60). Plaintiff incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs Fifty-Four (54), above, through Fifty-Nine, (59), above, inclusive.

61). Defendants have, acting under color of State Lew, subjected Plaintiff LEE to a deprivation of his First Fifth,

and Fourteenth Amendment Rights of the United States Constitution, and under Law.

62). Defendants have, by their Practices, Customs, Policies and usages, subjected Plaintiff to a substantial deprivation of his rights, and subjected Plaintiff to a significant and atypical deprivation that a Prison inmate should not have to endure as a result of his incarceration, in violation of Plaintiff LEE's First, Fifth, and Fourteenth Amendment to the United States Constitutiuon Rights, and under Law.

63). Defendants, acting alone or in conspiracy have, by their acts and/or omissions, denied Plaintiff concurrent State Statutory and/or State Constitutional Rights under the Ohio Constitution, Statutory Laws, and accompanying Administrative regulations as promulgated by the Joint Committee on Agency Rule Review as theOhio Administrative code, as well as rights Granted under Defendant's own Policies.

THIRD COMPLAINT

64). Plaintiff incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs one (1) through Seventeen (17), above.

65). LEE has been subjected to Defendant's Agents P. Komma and J. Sexton, respectively Librarian and Assistant Librarian, reading of LEE's confidential legal materials in the PCI Library.

66). Defendant's Agents Komma and Sexton peruse inmate's Legal Papers when inmates are typing on the typewriters in the Institution Library.

67). Defendant's Agents Komma and Sexton peruse inmate's Legal Papers when inmates turn Legal Papers in for copying through the established procedure for having legal copies made through the Institutional Library.

68). Lee has no other resouce for having copies of Legal Papers made, except to use the procedure in the Institutional Library.

69). Defendant's Agents Komma and Sexton make their own judgement of what they consider "legal" when perusing inmate's Legal Papers in the Library, and both Librarian Komma and Assistant Librarian Sexton have told LEE that certain legal papers are "not legal" at different times when LEE is either typing in the Library or has turned legal papers in for copying, including that Komma has refused to make a copy of a newspapers clipping that LEE was to use in Exhausting Available remedies for Religious Freedoms concerning this Action, and LEE has been, therefore, unable to use said newspaper clipping in exhausting available remedies, which has caused LEE detriment in this matter.

70). Defendant's Agent Komma has discussed LEE's confidential legal papers with Erwin when LEE has turned confidential legal papers in for copying, including Komma discussing with Erwin Legal Papers pertaining to the instant Action.

71). Defendant's Agent Komma has refused to copy LEE's legal papers on more than one occasion, stating that Erwin said Komma "didn't have to, as they are not legal," this occurring on or about March 3, 1997.

72). LEE had to show Defendant's Agent Komma other confidential legal papers in order to convince Komma that

the Papers in question on March 3, 1997, mentioned in paragraph 71, above, were, in fact, legal in nature.

73). Defendant's agent Sexton has confiscated for "investigation" legal papers LEE had turned in for copying on or about March 14, 1997, stating that he (Sexton) was going to "send them to Erwin" because said Legal Papers had another inmate's name on them (an unpublished Decision LEE needed for citation in another Action).

74). Defendant's Agents Komma and Sexton are in posession of LEE's and other inmate's, confidential legal papers for hours, sometimes days, when inmates have to turn in confidential legal papers at the institutional Library for copying, and inmate, LEE included, have no assurance that Defendant's Agents Komma and Sexton, and/or others, are not thoroughly reading and/or copying for their own – or Departmental – use, inmate's confidential legal papers.

75). LEE has Filed Grievances concerning Defendant's Agents Komma and Sexton reading inmate's legal papers, nad LEE has been told, through Grievance and Appeal of Grievance response, that Komma and Sexton are permitted to do so for Security reasons, and that Komma and Sexton are not "reading" said legal papers, but are only "scanning" them to determine that they are, in fact, legal in nature. According to Defendant's Agent Sare Kavak, "[t]he Librarian has the right to *glance* at paperwork to determine of they are legal work."

76). Defendant's Agents Komma and Sexton normally have no knowlege of what, or what type of, legal actions LEE is pursuing, and therefore cannot tell "at a glance," or even through thorough reading, whether the materials they are viewing is, in fact, for a current, pending, or

anticipated Legal Action. Defendant's Agents Koma and Sexton have no specialized training in the Law and therefore have no legal basis or professional background upon which to base a decision that some certain paperwork is "legal" in nature or not.

77). The Actions of Komma and Sexton related in paragraphs Sixty-Four (64) through Seventy-Six (76), above, are in violation of the right of confidentiality that inmates have in their legal papers when pursuing their right of Access to the Courts and to Petition the Government for a redress of Grievances.

78). The actions of Komma and Sexton related in paragraphs above are in violation of inmate's right to Freedom of Speech, in that inmate's speech may be chilled or silenced through the unauthorized reading and/orthrough the refusal to copy confidential legal papers.

THIRD CAUSE OF ACTION

79). Plaintiff incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs sixty-four through Seventy-Eight, above.

80). Defendants, acting under color of State Law have, by their practices, customs, Policies and usages, subjected LEE to deprivations of his Federally-Protected rights in violation of the First and Fourteenth Amendments to the United States Constitution, and under Law.

81). Defendants, acting alone or in conspiracy have, by their acts and/or omissions, denied LEE concurrent State Constitutional Rights under the Ohio Constitution, State Statutory Laws, and accompanying AdministrativE Regulations as promulgated by the Joint Committee on

Agency Rule Review as the Ohio Administrative Code, as well as rights granted under Defendant's own Policies.

82). Defendants, acting under color of State Law have, by their Practices, customs, Policies and usages, subjected LEE to deprivations of the Federally-Protected Right of Due Process of the Laws through interfering with Legal Work and Copying.

FOURTH COMPLAINT

83). Plaintiff incorporated herein by this reference, as if fully rewritten, the facts alledged in paragraphs one (1) through seventeen (17), above.

84). Plaintiff LEE is a non-smoker, who has been diagnosed through "PPD" testing as having been exposed to Tuberculosis during his incarceration. Plaintiff LEE has a severe psychological fear of further Lung damage, and has asked to be Housed in non-smoking Areas.

85). Defendants, within Plaintiff LEE's current Housing Area, provide two (2) supposedly non-smoking Housing Areas. Both Housing Areas also have smokers living in them.

86). There is smoking in the non-smoking Housing Areas, both by smokers who live in them, and by smokers who go "out of place" into the non-smoking Housing areas. Plaintiff LEE has Filed many Grievances about the presence of smokers in the non-smoking Housing Areas, and of smokers smoking in the non-smoking Housing areas.

87). Smokers are still moved into the non-smoking Housing Areas.

88). Television Bays and Hallways of LEE's Housing Area are designated as non-smoking Areas.

89). Inmates and Officers regularly smoke in the Television Bays and Hallways of LEE's Housing Area. LEE has Filed numerous Grievances concerning both Officers and inmates smoking in these Areas.

90). PCI Officers rarely enforce the non-smoking Regulations on inmates in the Hallways and Television Bays of LEE's Housing Area (A-Unit). Officers are not repremanded and ordered to stop when caught smoking by their Superior Officers, in non-smoking Areas.

91). LEE has Filed numerous Grievances on Officers smoking in the non-smoking Areas of A-Unit, and was told by Erwin that Officers are allowed to smoke in these non-smoking areas, including Hallways, Television Bays, *and* non-smoking inmate Housing Areas.

92). LEE has suffered dizziness, nausia, headaches, and other physical symptoms of illness as a result of breathing cigarette and/or cigar smoke in these supposedly non-smoking Areas.

93). LEE is in great fear of sustaining further Lung damage as a result of breathing smoke in these supposedly non-smoking Areas.

94). The Eighth Amendment to the United States Constitution says that inmates shall not be subjected to cruel and unusual punishment, while *Helling v. McKinney,* 113 St. Ct. 2475, states that prison officials may *not* "ignore a condition of confinement that is sure or very likely to cause serious illness and needless suffering next week or month or year." *Id.*, at 2480. Also, "the eighth amendment protects against future harm to inmates . . ." *Id.*

95). There is a serious, substantial likelihood that LEE will continue to be exposed to unreasonably high risks of contracting smoking related illnesses as a result of the exposure to second-hand tobbacco smoke that he is subjected to, and that PCI Officials will continue Housing smokers in non-smoking Housing Areas; That smokers will continue to smoke in non-smoking Housing Areas, Television Bays, and Hallways; That Officers will continue to fail to enforce non-smoking Regulations in non-smoking Areas; And that LEE's mental and physical health will continue to be adversely affected by the smoking in non-smoking Areas, which includes, but is not limited to: Inmate sleeping Areas; Hallways; Television Bays; Card and/or Study Rooms; and any and all other locations where inmates may gather and/or be located, throggh Administrative Action or otherwise.

96). Defendants consistently fail to provide Staffing levels sufficient to provide coverage of all inmate Housing areas often enough to enforce non-smoking Regulations.

97). Defendants have resources at their command with which to identify smokers and/or buyers of tobbacco products. Individual Officers have personal knowlege of smokers living in the non-smoking Housing Areas.

98). Defendants consistently fail to use the resources available, and/or refuse to use said resources, to identify smokers and/or buyers of tobacco products. Defendants fail to Order their Officers to identify and remove smokers from non-smoking Housing Areas.

99). Defendants allow known smokers to continue to reside in non-smoking Housing Areas after their status as a smokers has been determined.

100). Defendants have asked LEE to identify smokers for them, knowing that LEE's being labeled as a "snitch" could lead to LEE's being physically harmed by other inmates.

101). It is an Eighth Amendment violation to premise an inmate's protection from harm, even from the harm of cigarette smoke, on his having to "snitch."

FOURTH CAUSE OF ACTION

102). Plaintiff, incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs Eighty-three (83) through One Hundred and one (101), above.

103). Defendants have, acting under color of State Law, by their practices, customs, Policies and usages, subjected the Plaintiff, LEE, to an unreasonable risk of harm to his health through unwilling exposure to high levels of tobacco smoke, in violation of the eighth amendment to the United States Constitution, and under Law.

104). Defendants have acted with deliberate indifference to the prevasive, known risk of harm that Plaintiff may suffer from unwilling exposure to tobacco smoke, in violation of the Eighth amendment to the United States Constitution, and under Law.

105). Defendants have, by their wrongful, malicious, intentional acts and/or omissions, subjected Plaintiff to a substantial risk of harm to plaintiff's future health as a result of unwilling exposure to high levels of environmental tobacco smoke.

106). Defendants have, by their acts and/or omissions, denied Plaintiff concurrent State Constitutional rights under the Ohio Constitution, State Statutory Laws, and

accompanying Administrative Regulations as promulgated by the Joint Committee on Agency Rule Review as the Ohio Administrative Code, as well as rights Granted under Defendant's own Policies, Rules, and Procedures.

FIFTH COMPLAINT

107). Plaintiff incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs one (1) through seventeen (17), above.

108). Defendants have, in an exaggerated response to legitimate Prison concerns, violated Plaintiff LEE's Constitutional Right to posess legitimate, non-inflammatory Printed materials, by designating said materials "Inflammatory," and denying LEE the right to posess said Printed Materials, to wit: one Eight-page pamphlet from the Prisoner's Rights Group "P.R.O.G.R.E.S."

109). Plaintiff LEE asserts the following sequence of events regarding said P.R.O.G.R.E.S. pamphlet, volume I Number I;

A). On or abbut June 4, 1996, LEE received in through "legal mail" an envelope from an organization using the name P.R.O.G.R.E.S. The postmark date on said envelope was some three (3) weeks proir, or more,

B). Inside the envelope mentioned in paragraph 109(A), above, was one issue of the P.R.O.G.R.E.S. Volume I, nmuber I, newsletter/pamphlet, which contained an article about the Pickaway Correctional Institution, where Plaintiff LEE is Housed, as well as other, general information on the Ohio Department of Rehabilitation and Correction.

C). LEE showed this pamphlet to other inmates, one of whom, Derricking, took said pamphlet to the Institutional Library to have copies made through the System there.

D) On or about June 6, 1996, LEE was told by another inmate that D. King, as well as several other inmates, were in "Security Control" for investigation of "illegal copies" for posessing said P.R.O.G.R.E.S. pamphlet. LEE, knowing that the copies D. King made were legal, stepped forward and made a written statement through the PCI Captain's Office to that effect, also surrendering his (LEE's) copy of the P.R.O.G.R.E.S. pamphlet so that Institutional Officials would have the original for their investigation.

E). On or about June 21, 1996, LEE was given a pass to the Office of the Inspector of Institutional Services, wherein Acting IIS Deborah A. Timmerman-Cooper, after handling several other matters, came to said P.R.O.G.R.E.S. pamphlet. When she was uncertain as to what to do with said pamphlet, her husband, also present, Lt. Cooper, PCI Gang (Security Threat Group) Coordinator, said words to the effect that "they want to Withhold it from him." Mrs. Timmerman-Cooper admitted not having read said P.R.O.G.R.E.S. pamphlet, and was uncertain of what criterion or criteria of those allowed under O.A.C. 5120-9-19 to use. Lt. Cooper, after looking over the choices, pointed to, "'Incites, aids or abets "violence" against others'", one of the Inflammatory designations. LEE requests Review.

F). On or about July 3, 1996, LEE received from Acting IIS Timmerman-Cooper a Decision form, which again states that said P.R.O.G.R.E.S. pamphlet is "Inflammatory," as it "'Incites, aids or abets "villence" against other.'" LEE requests Review by the COPSO.

G). On or about August 5, 1996, while talking with D. King, LEE discovers that the copies of the P.R.O.G.R.E.S. pamphlet in his (King's) posession were not confiscated or otherwise Withheld from him. In givng LEE an DECLARATION TO THAT EFFECT, King also allowed LEE the use of one (1) copy of his (King's) P.R.O.G.R.E.S. pamphlet to copy the wording from. LEE has been in continuous posession of the *wording* of the P.R.O.G.R.E.S. pamphlet since that time.

H). On or about September 16, 1996, LEE received a September 6, 1996 Memo purportedly from the COPSC, stating that the P.R.O.G.R.E.S., January, 1996, pamphlet "should be excluded from the institution as the material was found to be INFLAMMATORY as defined by Administrative Regulation 5120-9-19." This letter stated that said Decision was "determined by the Publication Screening Committee and the Director of the Department of Rehabilitation and Correction," Mr. Wilkinson.

I). On or about September 25, 1997, LEE met with IIS Erwin to mail the P.R.O.G.R.E.S. pamphlet from the Institution. At that time, LEE told Erwin that he was in posession of the wording of the P.R.O.G.R.E.S. pamphlet, to which Erwin replied there was "no problem," that LEE could posess the wording of the pamphlet, but not the pamphlet itself.

J). LEE's visitor has never received the mailed-out P.R.O.G.R.E.S. pamphlet, and LEE's Account has never been charged for any postage for mailing out the P.R.O.G.R.E.S. pamphlet. LEE has never received a copy of the cash slip for postage. Despite this, Erwin claims that the Mailroom records show the pamphlet was mailed to LEE's visitor.

110). The P.R.O.G.R.E.S. pamphlet, Vol. 1, No. 1, in no way incited, aids, or abets "violence" against another,

111). The only course of action that the P.R.O.G.R.E.S., Vol. 1, No. 1, proposes is that, because "no one can assert your rights for you – YOU must assert your own rights." The P.R.O.G.R.E.S., Vol. 1, No. 1, pamphlet gives a list of Officials' names so that persons can "receive more information and/or . . . lodge a complaint with the appropriate listed agency."

112). Prison Officials have acted maliciously in Withholding the P.R.O.G.R.E.S., Vol. 1, No. 1, pamphlet from LEE, having no basis except their own distaste towards the information provided therein.

FIFTH CAUSE OF ACTION

113). Plaintiff incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs One-hundred and Seven (107) through One-hundred and Twelve (112), above.

114). Defendants, acting under color of State Law have, by their practices, customs, policies and usages, subjected Plaintiff LEE to deprivations of his Federally-protected rights, in violation of the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, and under Law.

115). Defendants, acting alone or in conspiracy have, through their malicious act of Withholding non-Inflammatory materials from Plaintiff LEE, denied Plaintiff LEE Freedom of Speech, in violation of the First and Fourteenth Amendments to the United States Constitution.

116). Defendants, acting alone or in conspiracy have, through their intentional acts, denied Plaintiff Equal Protection of the Laws, in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

117). Defendants, acting alone or in conspiracy have, through their intentional acts, denied Plaintiff Due Process of the Laws, in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

118). Defendants, acting alone or in conspiracy, have, by their acts and/or omissions, denied Plaintiff concurrent State Constitutional Rights under the Ohio Constitution, Statutory Laws,, and accompanying Administrative Regulations as promulgated by the Joint Committee on Agency Rule Review as the Ohio Administrative Code, as well as rights Granted under Defendant's own written Policies.

SIXTH COMPLAINT

119). Plaintiff incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs one (1) through Seventeen (17), above.

120). Defendants have, through their knowing use of Life and Health-threatening paints, subjected Plaintiff LEE, and all other inmates in the Pickaway Correctional Institution, to an unreasonable risk of harm to their current and future health, in violation of the Eighth and Fourteenth Amendments to the United States Constitution, to wit:

A). On or about October 10, 1996, Plaintiff LEE, on returning to his Housing Area from his Job, noted a strong odor of paint fumes in his Housing Area,

coming from the Black Paint used on the floor and radiators. LEE experienced nose and throat irritation, as well as a hadache and dizziness as a result of breathing the paint fumes present in his Housing Area.

B). LEE checked the labels on cans of paint being used to paint the radiators and floors in his Housing Area, and noted that they contained the warning that "(v)apor harmful. May affect the brain or nervous system causing dizziness, headache or nausia. Causes eye, skin, nose and throat irritation." This paint was specifically labelled as "Yenkin Farm & Fleet Equipment Emamel." Other paints were also being used, labelled with similar warnings.

C). LEE Filed Grievance on this matter, and exhausted all available remedies within the DoRC, and these harmful paints are still being used within the Housing Areas of PCI, causing LEE and other inmates symptons such as headaches, dizziness, nausia, nose and throat irritation, as well as other symptoms.

D). Some permanent damage to the brain or central nervous system may result from breathing certain paint fumes of the types of paints being used in the inmate Housing Areas, and some brain or central nervous system damage may not be apparent for substantial lengths of time after being exposed.

E). DoRC Officials have shown deliberate indifference to inmate health by exposing, and continuing to expose, the inmates, LEE included, to paint fumes known to cause brain and central nervous system damage.

121). DoRC Officials lock inmates in housing Areas for hours during the and overnight, while exposing the inmates to fresh fumes from these harmful paints.

122). Defendant's own Policies specifically admit that there is insufficient airflow in the Housing Areas of PCI, and reduced airflow can cause inmates additional exposure to said paint fumes, above and beyond the norm that causes minor damage.

123). PCI Officials continue to lock inmates in Housing Areas where these harmful paints have recently been used, and where harmful paint fumes are present.

SIXTH CAUSE OF ACTION

124). Plaintiff incorporates herein by this reference, as if fully rewritten, the facts alleged in paragraphs One-hundred and Nineteen (119) through One-hundred and Twenty-three (123), above.

125). Defendants, acting under color of state law, have, by their practices, customs, policies and usages, exposed Plaintiff LEE to an unreasonable risk of harm to his current and future health, through unwilling exposure to harmful paint fumes, in violation of the Eighth Amendment to the United States Constitution, and under Law.

126). Defendants have acted with deliberate indifference to the known, pervasive risk of harm that Plaintiff may suffer from unwilling exposure to health-damaging paint fumes, in violation of the Eighth Amendment to the United States Constitution, and under Law.

127). Defendants have, by their wrongful, wanton, malicious and intentional acts and/or omissions, subjected Plaintiff to a substantial risk of harm to Plaintiff's health, through brain and central nervous system damage, as a result of unwilling exposure to health-damaging paint

fumes, in violation of the Eighth Amendment to the United States Constitution, and under Law.

128). Defendants have, by their acts and/or omissions, denied Plaintiff concurrent State Constitutional rights under the Ohio Constitution, State Statutory Laws, and accompanying Administrative Regulations as promulgated by the Joint Committee on Agency Rule Review as the Ohio Administrative Code, as well as rights granted under Defendant's own Policies, Rules, and procedures

REQUESTED RELIEF

129). Wherefore, for the acts and/or omissions of Defendants within the First Complaint, Plaintiff Cutter hereby requests:

1). Immediate posession of all materials Withheld from Cutter as "Inflammatory," and;

2). The sum of $666.00 per item Withheld from Cutter, and;

3). The sum of $666.00 per day, for each day, for each item, that each item has been Withheld from Cutter in violation of Cutter's First Amendment Rights, and;

4). The sum of $666.00 per day for each item requested to be provided Cutter by the Administration, including, but not limited to, reading materials, the Satanic Bible, The Satanicon, and/or any and all other Religious/Inspirational Literature which Cutter has requested to be provided in the same manner in which the Administration provides inmates of other Religions with the Printed Materials of their Faiths, and;

5). That the Administration provide Cutter immediate access to all such materials requested, such as they provide access to materials requested by members of more "approved of" Religious Faith groups, and;

6). Access to Space and Tools with which to Worship, including, but not limited to, access to a bell, a chalice, Black Robes, Black candles (and/or small light bulbs), a sword symbol such as a broomstick or other instrument of proper length, altar, gong, and a medallion of Baphomet, and;

7). Any and all other relief such as this Court may see fit to Grant.

130). Wherefore, for the acts and/or omissions of Defendants withijthe First Complaint, Plaintiff LEE hereby requests:

1). Immediate posession of all materials Withheld from LEE as " Imflammatory," and;

2). The sum of $555.00 per item Withheld from LEE, and;

3). The sum of $555.00 per day, for each item, for each day that each item has been Withheld from LEE in violation of LEE's First Amendment Rights, and;

4). The sum of $555.00 per day for each item requested to be provided LEE by the Administration, including, but not limited to, reading materials, Religious/Inspirational Literature, and other written Religious Materials dealing with Wicca that LEE has requested to be provided in the same manner in which the Administration provides inmates of other Religious Faith Groups with the Printed Materials of their Faiths, and;

5). That the PCI Administration provide LEE immediate access to all such materials requested, such as they provide access to materials requested by members of more " approved off Faith Groups, and;

6). Access to Space and Tools with which to Worship, including, but not limited to, the Institution's immedi ately providing a contract with a Bona Fide Coven Leader from outside the Institution to enter into the Institution on at least the necessary twenty-one (21) times per year that Wicca has Sabbats and Esbats, in order to Minister to LEE and other Wiccans at those times, and to properly see to Wiccan Needs, and;

7). Access to the necessary Religious Space and Tools individually, in order that LEE may worship at times when the Coven Leader is not available, the Tools necessary including, but not being limited to, Runes, Salt, a Wand, a Pentacle,, Herbal Teas and a Quartz Crystal, andany and all other Tools as may become necessary during LEE's course of instruction by the Coven Leader contracted, and;

8). The sum of $555.00 per day for each day, for each item, that LEE is denied access to Religious Counsel and/or instruction and/or Leadership, and to the Tools of Wicca with which to properly Practice Wicca, and;

9). An immediate injunction preventing Institutional and/or Departmental Personnel, and/or any and all other persons and/or entities who may gain control over any aspect of LEE's current Incarnation, crom cutting, or Ordering LEE to cut, LEE's hair, and;

10). The sum of $55,555.00 personally from Defendant Pringle for the malicious, intentional act of using a violation of LEE's Religious Beliefs as punishment in the Institutional setting, and;

11). The sum of $55,555.00 in his Official capacity from Defendant Pringle for the malicious, intentional act of using a violation of LEE's Religious Beliefs as punishment in the Institutional setting, and

12). The sum of $5,555.00 personally from Defendant Stallins for the malicious, intentional act of violating LEE's Religious Freedoms and Equal Protection Rights by forcing LEE to submit to a haircut, and;

13). The sum of $5,5 55.00 in his Official capacity from Defendant Stallins for the malicious, intentional act of violating LEE's Religious Freedoms and Equal Protection Rights by forcing LEE to submit to a haircut, and;

14). Any and all other Relief such as this Court may see fit to Grant.

131). Wherefore, for the acts and/or omissions of Defendants within the Second Complaint, Plaintiff LEE hereby requests:

1). An immediate injunctio n preventing Institutional Officials, and/or any and all other persons and/or entities who may gain control over any aspect of LEE's current Incarnation, from harassing, attempting to harass, intimidating, attempting to intimidate, or writing any Disciplinary Report on LEE's Conduct for the legitimate, peaceful, and Constitutional assertation of the First Amendment Right to Grieve, and;

2). An immediate Court Order Expunging the Conduct Reports of September 1, 1996 and February 9, 1 997, and;

3). The sum of $55,555.00 personally from Defendant Van Sickle for the malicious, knowing, and wanton act of retaliation against LEE for offering assistance in the First Amendment forum to another inmate, which constitutes an infringement not only upon the First Amendment Rights of LEE, but of the inmate to whom the offer was made, and;

4). The sum of $55,555.00 in his Official capacity from Defendant Van Sickle for the malicious, intentional, and knowing act of wanton retaliation against LEE for offering assistance in the First Amendment forum to another inmate, which constitutes an infringement not only upon the First Amendment rights of LEE, but of the inmate to whom the offer was made, and

5). Any and all other relief which this Court may see fit to Grant.

132). Wherefore, for the acts and/or omissions of Defendants within the Third Complaint, Plaintiff LEE hereby requests:

1). An immediate Injunction preventing Defendants, their Agents, Employees, Representitives and Successor(s) in Office from the Practice of continuing to maintain the Policy of having inmate turn in their confidential Legal M aterials to Defendant's Agents to have copies made, where the Policy is instituted in such a manner that the inmates have no confidentiality in their legal materials and where inmates have no confidentiality – assured guarantee, or any assurances that Defendants Agents Komma and Sexton, and/or others, are not producing extra copies of said Legal Materials for Defendants' own use, or reading said legal materials when holding them for copying, and;

2). An immediate injunction preventing Defendant's Agents Komma and Sexton, and/or others acting in any capacity to copy inmate's legal materials, from "scanning," viewing, perusing, and/or otherwise taking note of any items being submitted for copying, and/or any items being typed, which has, and will continue to, violte the confidentiality of inmates' confidential legal materials, and;

3). The sum of $555.00 per incident for the several incidents in which Defendant's Agents Komma and Sexton have viewed, read, Withheld for "Investigation," and/or otherwise "glanced" at or purposely read or viewed and/or made any decision on the legal nature of LEE's confidential Legal Materials when said Legal Materials have been submitted for copying and/or were viewed by Sexton and/or Komma during LEE's efforts to type, and;

4). An immediate Injunction preventing Defendant's Agents Komma and Sexton, and/or any and all other persons acting in any capacity, from making any decisions concerning whether or not LEE's confidential Legal Materials being submitted for copying, and/or being typed, fit their own view of whether that item being submitted for copying, or being typed, is "legal" in nature, and that Defendants be Ordered to copy, without viewing in any manner the contents of, any Legal Materials being submitted by LEE and/or any and all other inmates, and that Defendants be Ordered that Defendant's Agents Komma and Sexton, and or any and all othe other persons acting in any capacity, will refrain from "glancing" at or otherwise viewing any confidential Legal Materials belonging to any inmate(s) in the Pickaway Correctional Institution.

133). Wherefore, for the acts and/or omissions of Defendants within the Fourth Complaint, Plaintiff LEE hereby requests:

1). That Defendants are immediately enjoined from continuing their Policy of H ousing Smoking inmates in non-smoking Housing Areas, and;

2)1 That Defendants are immediately enjoined from continuing to move smoking inmates into non-smoking H ousing B ays, and;

3). That Defendants are enjoined from reducing the current number of non-smoking Housing Bays, and that, if there are not enough non-smoking inmates to fill the available bed in the non-smoking Housing Bays that Defendants will not fill these empty beds, even on a temporary basis, with smoking inmates, and;

4). That Defendants are enjoined from their current Practice and Policy of not taking Disciplinary Action against Officers, Employees, and/or any and all Staff and/or other persons working in the Pickaway Correctional Ground, even on a temporary basis, and that Defendants are Ordered to accept legitimate Complaints of Staff smoking in non-smoking Areas as basis for Disciplinary Action, even when such Complaints come from inmates, and;

5). That Defendants are enjoined from their current practice and Policy of failing to enforce non-smoking Regulations on inmates in the Hallways, Television Bays, Card Rooms, and any and all other designated non-smoking Areas of the Pickaway Correctional Institution, and;

6). That Defendants are Ordered to make smoking in a non-smoking Area an offense punishable by a minimum of ten (10) unpaid days off work for Staff,

and a minimum of placement in Security Control for inmates, and;

7). That Defendants are Ordered to pay Plaintiff LEE the sum of $55,555.00 dollars in Compensatory Damages for the Physical and psychological damage done Plaintiff LEE through being Housed in non-smoking Areas where there are smokers present who were smoking during each of the days that these smokers were present and living in these designated non-smoking Areas, and that Defendants. are further Ordered to pay Plainti ff LEE the sum of $55,555.00 in Punitice Damages for the Physical and Psychological damage done Plaintiff through being Housed in non-smoking Areas in which smokers were, and are, present, which smokers smoked and smoke in the non-smoking H ousing Bays to this day, and that Defendants are further Ordered to pay Plaintiff LEE the sum of $55,555.00 in Punitive Damages for their failure to remove the non-smoking inmates of Pickaway Correctional Institution from the pervasive risk of known harm that is done through the exposure to smoke in second-hand form after Plaintiff LEE Filed numerous Grievances on the matter of smoking inmates being H oused in non-smoking Bays, and Defendants continued to not only allow smokers to remain in the non-smoking Housing Bays, but continued moving smoking inmates into the non-smoking Housing Bays after these numerous Complaints and Grievances, which Practice of moving smoking inmates into the non-smoking Housing Bays continues to this day, and;

8). That Defendants are Ordered to pay Plaintiff LEE the sum of $55,555.00 in Compensatory Damages for the Physical and Psychological harm and damage done Plaintiff LEE by Officers, Employees,

and other Staff Members – whether on a permanent, temporary or contract basis – smoking in designated non-smoking Areas of the Pickaway Correctional Institution, including the non-smoking Housing Bays, and that Defendants are Ordered to pay an additional $55,555.00 in punitive damages to Plaintiff LEE for the physical and psychological harm and damage done to plaintiff LEE by Officers, Employees, and other Staff Members smoking in designated non-smoking Areas of the Pickaway Correctional Institut ion, including non-smoking Housing Bays, and;

9). That Defendants are Ordered to pay the sum of $55,555.00 to the local branch of the American Cancer Society, or other like Public Service Organization, in Punitive Damages, for Defendants' failure to H ouse non-smoking inmates in non-smoking Housing Bays that were, – and are – truely smoke-free, and an additional $55,555.00 in Punitive Damages for forcing non-smoking inmates to live in smoking Areas and smoking Housing Bays while on a "waiting list" for a bed in a non-smoking Housing Area when there were – and are – beds in non-smoking Housing Bays assigned to smoking inmates.

134). Wherefore, for the acts and/or omissions of Defendants contained within the Fifth Complaint, Plaintiff LEE hereby requests:

1). The sum of $55,555.00 in Compensatory Damages from each Defendant found to have an active part, or who is shown to have actively participated in, in Withholding the P.R.O.G.R.E.S. Vol. 1, No. 1, Pamphlet from Plaintiff LEE, and;

2). The sum of $55,555.00 in Punitive Damages from each Defendant found to have taken an active part in, or who is shown to have actively participates in, Withholding the P.R.O.G.R.E.S. Vol. 1, No. 1, Pamphlet from Plaintiff LEE.

135). Wherefore, for the acts and/or omissions of Defendants contained within the Sixth Complaint, Plaintiff LEE hereby requests:

1). The sum of $55,555.00 in compensatory damages from each Defendant found to have an active part, or particapatory knowlege of, use of health damaging pai nts in the inmate Housing Areas of Pickaway Correctional, or who gained knowlege of such use and failed to act tō protect the health of i nmates in the Pickaway Correctional Institution, and;

2). The sum of $55,555.00 in punitive damages from each Defendant found liabile in this matter of use and/or failure to stop using health-damaging paints in the Inmate Housing Areas of Pickaway Correctional

136). Wherefore, Plaintiffs respectfully request Trial by Jury on the above matters, to establish liability of each Defendant, and to relieve Plaintiffs from the above noted violations of Plaintiffs' Constitutional and Statutory Rights, and to receive Award of the requested Relief, as well as any and all other Relief which may be appropriate and necessary.

137). Plaintiffs herein, by their signatures below, do hereby declare under penalty of Perjury that the foregoing is true and correct to the best of their knowlege and belief.

/s/ Jon B. Cutter
Plaintiff Jon B. Cutter
#A267-858
Pickaway Corr. Inst.
P.O. Box 209
Orient Ohio 43146-0209

11-8-97
Date

/s/ [Illegible]
Plaintiff LEE
a.k.a. Inmate Hampton
#A154-328
Pickaway Corr. Inst.
Box 209
Orient Ohio 43146-0209

11-8-97
Date

SERVICE

I hereby CERTIFY that a copy of the foregoing First Amended Complaint was sent to Counsel for the Defendants, Paula Luna Paoletti, this 9th day of November, 1997; and that two (2) additional copies of said First Amended Complaint were sent to the Clerk of Courts with attached Summons in a Civil Action and U.S. Marshall's Service Form for Service on added Defendants Stallins and Van Sickle this same 9th day of November, 1997.

Respectfully submitted,

/s/ Lee

LEE – Plaintiff Pro Se
a.k.a. Inmate H ampton
#A154-328
P.O. Box 209
Orient Ohio 43146-0209

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LEE, et al.	:	
Plaintiffs	:	Case No C2-97-382
v.	:	Judge Graham
Wilkinson, et al.	:	Magistrate Judge Abel
Defendants	:	

[Pro Se]

SECOND AMENDED COMPLAINT

(Filed OCT 31, 2000)

1.) Plaintiffs, by this reference, incorporate herein as if fully re-written, the facts and complaints and causes of action in Plaintiff's *First Amended Complaint* of November 14, 1997.

2). Defendants did and do receive Federal Financial Assistance for Programs and Activities affected by Actions Complained of herein, and;

3). Defendants Actions affected interstate commerce, and;

4). Defendants actions, while burdening Plaintiff's Religious Exercise, were not in furtherance of a compelling government interest, and;

5). Defendant's actions were not the least restrictive means of furthering any compelling interest that they may be able to bring forth, and;

6). Defendant's actions, therefore, were in violation of the *Religious Land Use and Institutionalized Persons Act of 2000*, Section 3, *Protection of Religious Exercise of Institutionalized Persons*, *et seq*, and;

7). Plaintiffs herein bring this Action, in addition to claims asserted in Plaintiff's *First Amended Complaint*, under protection of the *Religious Land Use and Institutionalized Persons Act of 2000.*

Respectfully submitted,

/s/ [Illegible]
LEE – Plaintiff Pro Se
a.k.a. Inmate hampton
#A154-328 JA
Ross Correctional Institution
P.O. Box 7010
Chillicothe Ohio 45601-7010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN W. GERHARDT,	:	
Plaintiff,	:	CASE NO. C2-95-517
-vs-	:	JUDGE SARGUS
ALAN LAZAROFF et al.,	:	Magistrate Judge Kemp
Defendants.	:	

THIRD AMENDED COMPLAINT

(FOR DECLARATORY AND INJUNCTIVE RELIEF AND FOR DAMAGES; DEMAND FOR JURY TRIAL)

Introduction

1. This is an action for declaratory judgment and injunctive relief and for damages pursuant to 42 U.S.C. §1983; the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States; and the comparable provisions of the Constitution and laws of Ohio. It is brought to redress deprivations of the rights of the plaintiff – and to prevent future violation of those rights – caused by the defendants' (a) refusal to permit Mr. Gerhardt to receive certain literature from the Christian Identity Church, (b) refusal to permit Mr. Gerhardt to organize and participate in Christian Identity religious services, and (c) retaliation against Mr. Gerhardt for his efforts to engage in the free exercise of his religion. Each of the paragraphs in the complaint incorporates the other paragraphs.

Jurisdiction

2. Jurisdiction of this action is based on 28 U.S.C.§§1331, 1343, and 1367(a), 42 U.S.C. §1983, and applicable provisions of Ohio law.

3. Declaratory and injunctive relief, damages, costs and attorneys' fees are sought pursuant to 28 U.S.C. §§2201 and 2202, 42 U.S.C. §§1983 and 1988, and applicable Ohio law.

Venue

4. This action properly lies in the Southern District of Ohio, Eastern Division at Columbus, pursuant to 28 U.S.C. §1391(b) and S.D. Ohio L.R. 3.3(b) because the Defendants are found and reside in this judicial district, and because the events or omissions that are the subject of this action occurred in Pickaway County, Ohio.

Parties

5. The plaintiff, John W. Gerhardt, is a citizen of the United States and the State of Ohio. He presently resides in the Orient Correctional Institution in Pickaway County.

6. Defendant Alan Lazaroff is the Warden of Orient Correctional Institution, which is operated by the Department of Rehabilitation and Correction of the State of Ohio. His principal place of business is in Pickaway County, Ohio. At all relevant times, he has acted under color of state law. Defendant Lazaroff is sued in his individual and official capacities with regard to the declaratory and injunctive relief sought, and in his individual capacity with regard to the claims for damages.

7. Defendants Jack Taylor and June Coleman are employees of Orient Correctional Institution, which is operated by the Department of Rehabilitation and Correction of the State of Ohio. Their principal place of business is in Pickaway County, Ohio. At all relevant times, they have acted under color of state law. Defendants Taylor and Coleman are sued in their individual and official capacities with regard to the declaratory and injunctive relief sought, and in their individual capacities with regard to the claims for damages.

8. There are an unknown number of John and Jane Doe defendants who are or have been employees of the Orient Correctional Institution or are otherwise employed by the Department of Rehabilitation and Correction or the State of Ohio; their identities are not known with certainty to the Plaintiff at this time, but they will be identified during the course of this litigation. Their principal places of business are in Pickaway and Franklin Counties, Ohio. At all relevant times, they have acted under color of state law. These Doe defendants are sued in their individual and official capacities with regard to the declaratory and injunctive relief sought, and in their individual capacities with regard to the claims for damages.

Facts

9. John W. Gerhardt is a member of the Church of Jesus Christ Christian ("Christian Identity Church" or "Church") which is headquartered in Hayden Lake, Idaho.

10. In 1973 he was ordained as a minister through the Mountain Church of Jesus Christ, of Howell, Michigan. Subsequently, he was ordained as a minister by the Christian Identity Church.

11. The Christian Identity Church asserts religious doctrines which it believes are based upon the Holy Bible. Included among its biblically-based doctrines is a belief in the separation of the races. Mr. Gerhardt is a Caucasian of non-Jewish descent.

12. The Church issues several publications, including but not limited to *The Way*, it Prison Outreach Newsletter. The contents *of The Way* pose no threat to safety, security, or order within the Orient Correctional Institution.

13. Copies of *The Way* and various other Church publications have been mailed into Ohio prisons, including Orient Correctional Institution.

14. Certain of the publications have been rejected by the Orient and other Ohio institutions. Sometimes, some inmates are permitted to receive copies of *The Way* at a given institution while other inmates are barred from receiving them. On occasion, an inmate is prohibited from receiving a copy of *The Way* from the Church's Idaho headquarters, but the same inmate is permitted to receive the identical text from other sources.

15. The defendants *have* seized copies of *The Way* – which were mailed to Mr. Gerhardt at his request – by the Church. Among the copies of *The Way* that have been seized and withheld from Mr. Gerhardt are Issues numbered 9, 25, 26, 27, 28, 29, 30, and 31. These issues will being deposited separately with the Court. It is believed that other issues and publications have also been seized and withheld.

16. Materials of other religious groups with scripturally-based belief in the separation of races have not been barred from Orient.

17. In the past, Mr. Gerhardt has sought to have Christian Identity religious services conducted within Orient Correctional Institution for his benefit and for the benefit of co-religionists therein. These efforts have been refused, but he is in the process of renewing such efforts under new regulations promulgated by the Department of Rehabilitation and Correction.

18. During his entire incarceration, Mr. Gerhardt's behavior has been exemplary; nonetheless, he has been deprived of certain liberty and property interests, which deprivations are unrelated to the reasons for, or legitimate institutional interests surrounding, his incarceration.

19. As a result of his attempts to receive the religious materials and to hold religious services, on two occasions Mr. Gerhardt has been retaliated against by being charged falsely with, and punished for, purported rules infractions within the institution.

20. On one occasion, from early April until late May 1995, defendant Taylor, and those acting in concert with him, caused Mr. Gerhardt to be placed in "the hole" for forty-nine days. The alleged infraction was subsequently overturned by Reginald Wilkinson, Director of the Department of Rehabilitation and Correction, three months after Mr. Gerhardt had served his punishment.

21. On another occasion, in January 1996, defendant Coleman, and those acting in concert with her, caused Mr. Gerhardt to be placed in "the hole" for twenty-six days. The alleged infraction was subsequently overturned

within the Orient administrative process, but, even then, the defendants did not cause Mr. Gerhardt timely to be released from his punishment.

22. In addition, because of his efforts to receive religious literature and the right to have Christian Identity services, Mr. Gerhardt has been retaliated against by discrimination against him in the parole process.

23. In March 1996, Mr. Gerhardt was authorized to be released on parole. However, he was held from release, and in May 1996 his parole was withdrawn. The defendants, and those acting in concert with them, caused this reversal as retaliation for his efforts to exercise his constitutional rights.

24. Until April 1997 the defendants maintained racially-segregated lists of inmates for eligibility for merit status; the list was maintained for preferred job assignments and other privileges.

25. Because of the segregated lists, Mr. Gerhardt was prevented from early advancement to merit status.

26. The conduct of the defendants has been intentional, arbitrary and capricious, and with deliberate indifference to the rights of Mr. Gerhardt.

Count I

27. The withholding of religious literature from Mr. Gerhardt infringes upon (a) his rights secured under the Free Exercise Clause of the First Amendment, made applicable through the Fourteenth Amendment, to the Constitution of the United States, and under the comparable provisions of the Constitution of Ohio, (b) his right

not to have his religious mail and religious books subjected to unreasonable seizure in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the Constitution of Ohio, (c) his right to due process of law guaranteed under the Fifth and Fourteenth Amendments of the Constitution of the United States and the comparable provisions of the Constitution of Ohio, (d) his right to the equal protection of the laws guaranteed under the Fifth and Fourteenth Amendments to the Constitution to the United States and the comparable provisions of the Constitution of Ohio, and (e) rights secured under 42 U.S.C. §1983. Moreover, this conduct of the defendants (f) places the state in the position of granting favor to some faiths at the expense of others, in violation of the Establishment Clause of the First Amendment, made applicable through the Fourteenth Amendment, to the Constitution of the United States and comparable provisions of the Constitution of Ohio.

Count II

28. The denial of religious services to Mr. Gerhardt infringes upon (a) his rights secured under the Free Exercise Clause of the First Amendment, made applicable through the Fourteenth Amendment, to the Constitution of the United States, and under the comparable provisions of the Constitution of Ohio, (b) his right to due process of law guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the Constitution of Ohio, (c) his right to the equal protection of the laws guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the

Constitution of Ohio, and (d) rights secured under 42 U.S.C. §1983. In addition, the conduct of the defendants (e) places the state in the position of granting formal recognition and privileges to some faiths and denying the same to others, in violation of the Establishment Clause of the First Amendment, made applicable through the Fourteenth Amendment, to the Constitution of the United States, and under the comparable provisions of the Constitution of Ohio.

Count III

29. The punishments meted out to Mr. Gerhardt by placing him in "the hole" and by rescinding his parole constitute retaliation for the assertion of constitutionally protected rights and infringe upon (a) his rights secured under the Free Exercise and the Petition and Redress Clauses of the First Amendment, made applicable through the Fourteenth Amendment, to the Constitution of the United States, and under the comparable provisions of the Constitution of Ohio, (b) his right to due process of law guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the Constitution of Ohio, (c) his right to the equal protection of the laws guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the Constitution of Ohio, (d) his right not to be subjected to cruel and unusual punishments in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the Constitution of Ohio, and (d) rights secured under 42 U.S.C. §1983.

Count IV

30. The racial classification scheme previously employed in the merit system for assignment to jobs and other privileges violated Mr. Gerhardt's (a) right to the equal protection of the laws guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the Constitution of Ohio, (b) right to due process of law guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States and the comparable provisions of the Constitution of Ohio, and (c) rights secured under 42 U.S.C. §1983.

Request for Relief

For each of the foregoing reasons, and for all of them, Mr. Gerhardt requests the Court:

(a) to issue a declaratory judgment that (1) the defendants' withholding of Christian Identity religious materials, (2) their refusal to permit Christian Identity services, (3) their enumerated acts of retaliation, and (4) the racial classification scheme employed in the merit system have violated rights secured to Mr. Gerhardt under the Constitution and laws of the United States and the State of Ohio;

(b) to issue preliminary and permanent injunctions directing the defendants (1) to permit Mr. Gerhardt to receive Christian Identity Church literature, (2) to permit, and allow Mr. Gerhardt to participate in, Christian Identity services at the Orient Correctional Institution, and (3) to undo the effects of

prior acts of retaliation and refrain from any future retaliation against Mr. Gerhardt;

(c) to award Mr. Gerhardt compensatory damages jointly and severally against the defendants in their personal capacities in an amount proved at trial to compensate him for injury to his liberty and property interests;

(d) to award Mr. Gerhardt his costs and his attorneys' fees as provided in 42 U.S.C. §1988; and

(e) to award Mr. Gerhardt such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Benson A. Wolman

Benson A. Wolman (0040123)
Trial Attorney
Susan B. Gellman (0034375)
Wolman, Genshaft & Gellman
341 S. Third Street, Suite 301
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(614) 280-1000
(614) 280-9000 (Facsimile)

Attorneys for Plaintiff
John W. Gerhardt

[Certificate Of Service Omitted In Printing]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN W. GERHARDT, Plaintiff,	:	CASE NO. C2-95-517
-vs-	:	
ALAN LAZAROFF et al., Defendant.	:	MAGISTRATE JUDGE KEMP

UNOPPOSED SUPPLEMENT TO THIRD AMENDED COMPLAINT

(Filed Oct. 19, 2000)

Paragraphs 3 (Jurisdiction), 27 (Count I), 28 (Count II), and 29 (Count III) of the Third Amended Complaint are amended to add the Religious Land Use and Institutionalized Persons Act of 2000, signed into law on September 29, 2000.

Paragraph 6 is amended to *add* the new warden as follows: "Defendant Robert Beitler is the Warden of Orient Correctional Institution, which is operated by the Department of Rehabilitation and Correction of the State of Ohio. His principal place of business is in Pickaway County, Ohio. At all relevant times, he has acted under color of state law. Defendant Beitler is sued in his individual and official capacities with regard to the declaratory and injunctive relief sought, and in his individual capacity with regard to the claims for damages."

Paragraph 29 is amended to delete "and by rescinding his parole" from the first sentence thereof.

Counsel for the defendants has authorized the undersigned to represent to the Court that he does not oppose this Supplement.

Respectfully submitted,

/s/ [Illegible]

Benson A. Wolman (0040123)
Trial Attorney
Susan B. Gellman (0034375)
Wolman, Genshaft & Gellman
341 S. Third Street, Suite 301
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(614) 280-1000
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Attorneys for Plaintiff
John W. Gerhardt

[Certificate Of Service Omitted In Printing]

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

– – –

Steve Syder, et al., Plaintiffs, -vs- Governor George V. Voinovich, Et al., Defendants.	:	No. C2-94-536

– – –

JUNE 19, 1996

EXCERPTS FROM THE
DEPOSITION OF
MATTHEW R. MEYER

A Defendant herein, called by the Plaintiff for cross-examination under the applicable Rules of Ohio Civil Court Procedure, taken before me, Michael A. Caswell, Professional Reporter and Notary Public in and for the State of Ohio, pursuant to Notice, at the Offices of Bricker & Eckler, 100 South Third Street, Columbus, Ohio 43215, on Wednesday, June 19, 1996, commencing at 9:10 a.m.

– – –

APPEARANCES:

SARAH J. DeBRUIN, Attorney at Law
Bricker & Eckler
100 South Third Street
Columbus, Ohio 43215-4291
(614) 227-2300,

On behalf of the Plaintiffs.

JEFFREY POTH, Esquire
Ohio Attorney General Criminal Justice
140 East Town Street, 9th Floor
Columbus, Ohio 43215 (614) 644-7233,

On behalf of the Defendants.

ALSO PRESENT: Jeannette Butterworth

* * *

[78, 79] different than a gang?

A. The ones that I've been affiliated with are structured differently.

Q. Have you been affiliated with occult groups?

A. No. The ones that I've been aware of that I have been a part of investigating or doing research on have been different.

Q. How so?

A. The street gangs that I've been a part of investigating usually have several different ranks of hierarchies. The occult groups usually will have one individual, usually a charismatic leader, as a part of their group. They might have some other ranks, but not usually as deep, per se, as many levels as the street gangs have.

Q. Is it fair to say that street gangs are really organized to engage in criminal activities whereas an occult group might be organized for other purposes, I mean to carry out a cause and not necessarily designed to commit crimes? Is that fair or not?

A. Yes and no. It's really changing with the street gangs. A lot of street gangs are creating or – protections that a religious affiliation provides them under the freedom of religion act. And two, if you'll look back at how a lot of groups started, you'll see that if you can make a belief system as a part of your cause, it really strengthens the beliefs of those individuals within your group.

I would use the example of Saddam Hussein during the Gulf War saying that the United States was coming to take away their rights of them to worship Allah, and that was their rallying cry. And when he gave that, that was what brought everybody together. A lot of those charismatic gang members or leaders on the street realize, you know, that to bring a belief system makes their group even stronger.

Q. So that's a phenomenon you're seeing in street gangs today?

A. As well as in the institutions and the security threat groups.

Q. Okay. At the University of Dayton, how many courses did you have in sociology?

A. Maybe three.

Q. Did any of those courses focus on gangs or

* * *

[106, 107] Q. And in fact, the department has a rather comprehensive Muslim religious program, doesn't it?

A. Yes, it does.

Q. And in fact, that program permits Muslims on one occasion to have separate meals and separate celebrations twice a day for a period of one month during the feast of Ramadan; is that correct?

A. I believe it is.

Q. Do you believe those celebrations and those separate feasts are opportunities for security threat groups to organize?

A. Yes, I do. I think – Let me explain that. I think that in an institution you have to be very careful about granting – you have to be very conscientious of perception from other inmates and very conscientious of privileges that you grant to one group and the perception of how another group is going to perceive that at the institution. You have to be very careful in how you implement those things because it opens, you know – Since the freedom of religion act, it's opened a lot of doors for other groups to come in and claim they're participating with some or we've had individuals that have literally picked the encyclopedia of religions and picked the religion out they want to be affiliated so that they can get certain rights affiliated with that religion even though the religion hasn't existed for several hundred years.

Q. I understand that's a problem and I understand the department considers the Religious Freedoms Restoration Act to open the door to some of those problems. What I'm curious about though is here we have a documented

case of a group of Muslims who started a riot, killed people, a lot of people, have been prosecuted for it, and yet the department allows and goes out of its way to make special allowances for these individuals to still meet separately and conduct their religious practices. You've testified that you think that's a security threat; is that correct? Or it's an opportunity for security threat group activities to go on; is that right?

A. If not properly managed, yes.

Q. But it's an opportunity and potential; is that right?

A. Yes.

* * *

[188, 189] as new groups.

Q. Specifically, what new groups did you talk about, if you can recall?

A. I spoke about new groups that we – some of the groups that we have that are changing, involving some of the – I talked about the Hanafi group and the fact that that group as well as some of the other groups that we're seeing in the institution are using some of the religious aspects as covers for their group. I also spoke about the Aryan Brotherhood and their increase in activity in our system and department and the activity that they're having on the street as well.

Q. Now, other than the Hanafi group that use their religion as a cover, what other groups have done that?

A. There's a white supremacist group that has used several churches as a cover for their white supremacist activity. And they say they're not a threat, but rather a church organization. However, their actions have shown otherwise.

Q. And this you've seen in the department

A. Yes, I have.

Q. Give me some examples of that.

A. Well, there's a case currently involving the Aryan Nations who are trying to say that Aryan Nation propaganda that is sent to inmates and Aryan Nation activity in the institution is protected under the freedom of religion act.

Q. Any other examples of security threat groups using religions or attempting to get protection from the Religious Freedom Restoration Act that you're aware of?

A. That's the only one I can think of right now.

Q. You can't think of any others?

A. Besides the Hanafi group and this group, Aryan Nation, that's happened at more than one institution. That's all I can think of right now.

Q. To your knowledge, have the Native American groups in the different institutions ever used their group time or their opportunity to meet as an opportunity to further any kind of security threat group activities?

A. Not that I'm aware of.

Q. To your knowledge, have any inmates who

* * *

CERTIFICATE

– – –

THE STATE OF OHIO:

SS:

COUNTY OF FRANKLIN:

I, Michael A. Caswell, a Professional Reporter and Notary Public in and for the State of Ohio, do hereby certify that before the taking of this said deposition, the said MATTHEW R. MEYER was first duly sworn by me to tell the truth, the whole truth and nothing but the truth;

That said deposition was taken in all respects pursuant to the stipulations of counsel heretofore set forth; that the foregoing is the deposition given at the said time and place by the said MATTHEW R. MEYER;

That I am not an attorney for or relative of either party and have no interest whatsoever in the event of this litigation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office at Columbus, Ohio, this 1st day of July, 1996.

My Commission expires
June 28, 1999

/s/ Michael A. Caswell
MICHAEL A. CASWELL
Notary Public
In and for the State Of Ohio

– – –

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN MILLER, et al.,
Plaintiffs,
vs.
REGINALD WILKINSON, et al.,
Defendants.

Civil Action No.
C2-98-275

DEPOSITION
of **MATTHEW MEYER**

Taken at the offices of
Ohio State University
College of Law
55 West 12th Avenue
Columbus, Ohio 43210
on February 18, 2000, at 9:32 a.m. and
on March 17, 2000, at 9:18 a.m.

Reported by: Angela R. Starbuck, RPR

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[36] MR. MARTI: Objection. Go ahead and answer.

A. If I understand your question correctly, can two Iron Horsemen members attend a Catholic service together?

Q. In the same prison.

A. Yes.

Q. Okay. I'd like you to turn to the first – I think it's Exhibit 25.

A. Yes.

Q. Okay. Is the date on top of this document – that's the date it was printed out; is that right?

A. That's correct.

Q. Okay. Just checking.

So nowhere on this – this document does it show the date that the document was made; is that correct?

A. That's correct. It's – it's in the computer, but it doesn't print out on this – it won't print out on this form.

Q. Okay. Could you read the name of the inmate.

A. [Putative Class Member #1]

[37] Q. Could you read the label at the top of the page.

A. STG inmate information.

Q. Okay. Do you know who prepared this specific document?

A. I believe I printed it out.

Q. No, I mean, who – who prepared the contents?

A. I – I can't tell you looking at this, no.

Q. Is there any way in the computer for you to tell me who gathered this information?

A. No, not without looking at the – not without looking at the profile.

Q. But I can tell by – I can tell by look at the profile who prepared this document?

A. There has to be a signature on it, yes.

Q. Okay. That's fine. What facility is [Putative Class Member #1] located in?

A. Shows him at being at Belmont Correctional Institution.

[38] Q. Okay. What's the STG code related to this inmate?

A. Aryan Reich.

Q. Is there a list of STG codes somewhere?

A. Yes.

MS. CONN: Could we get that document?

MR. MARTI: Would that be a problem?

THE WITNESS: No.

MR. MARTI: Okay.

BY MS. CONN:

Q. Are the STG codes uniform throughout the State of Ohio, or does each prison have a separate list?

A. No, we generate that.

Q. They're uniform throughout the state?

A. Yes.

MR. MARTI: Let me just interject, probably all the documents that we produced pursuant to your request will be under the confidentiality agreement. I just want to backtrack and make sure that list is under

* * *

[40] the information that's filling out the profile. Then it's checked by – by the investigator, then it's checked a third time by – by Phil and my office to see, one, whether it's – it's a group that had ever been identified previously. You know, a lot – a lot of them are street – street groups, et cetera; and, two, whether there's any other information to substantiate that.

Q. Now, we said in document 25 that [Putative Class Member #1] was – his STG code was Aryan Reich; is that –

A. Correct.

Q. Is there any information that relates that STG to Asatru, the religion, to your knowledge?

A. Not – not to my knowledge.

MR. MARTI: The reason this man's file was produced is because he was identified as a Plaintiff class member. I think that is probably your connection right there.

MS. CONN: Right.

BY MS. CONN:

[41] Q. So to the best of your knowledge, the Aryan Reich is not related to Asatru?

A. I – I can't really say. If you read on the notes section, he was actually corresponding with an inmate in Texas who is trying to get him involved with the Aryan Reich to then recruit people in Ohio.

Q. Right.

A. So I'm not totally familiar with the Aryan Reich.

Q. So that's – but how does that relate – what I'm asking is, to your knowledge, is the Aryan Reich related to Asatru?

A. I – I don't know.

Q. Okay. What is [Putative Class Member #1's] rank?

A. Doesn't list any rank.

Q. Could you explain what rank is and how you determine what someone's rank is.

A. Rank is – is what position they hold in an organization, determined either by their self-admission, by information that was confiscated, intercepted, or information that was gathered from a confidential

* * *

[44] list those which are believed to be significant to their STG affiliation.

Q. And how do you know about their tattoos?

A. By – by looking at them.

Q. And do you ask each inmate when they got each tattoo?

A. No. I mean, a lot of these guys are – are sleeved out. I mean, they're covered with tattoos. It would take you hours.

Q. What are [Putative Class Member #1's] tattoos?

A. It shows a tattoo description as being dagger, swastika, a war shield, and lightning bolts.

Q. Do any of those have any particular meaning, to your knowledge?

A. Yes, they do.

Q. What?

A. Well, the swastika is typically a tattoo worn by white supremacists. In the prison it is a common sign identified by – by all inmates as a white supremacy symbol from – from the times of Nazi Germany.

[45] The lightning bolts, as well, is identified as a – as a typical white supremacist symbol representing Hitler's SS troops.

Q. Okay. What about the other two?

A. The war shield, without looking at the tattoo, exactly, it's difficult for me to say what exactly the war shield is. A war shield, it could be an Aryan Nation's shield, it could be a Viking shield.

Q. Okay. What about the dagger?

A. The dagger, I – I don't know without looking at the tattoo.

Q. What about the lightning bolts?

A. The lightning bolts are the ones that typically represent the SS – or Hitler's SS troops.

Q. Oh, okay. And where are [Putative Class Member #1's] tattoos located?

A. It only shows the tattoos being located on the right arm, and that may – they might not be totally accurate, because we can only enter one tattoo location.

Q. Oh, okay. Could you read the [46] paragraph under the notes section.

A. Paragraph says, "Received information from [redacted] 532-040, from Tennessee -- Tennessee Colony, Texas, regarding the creation of a United Aryan Front. [Putative Class Member #1] was asked to represent that troop in Ohio.

"The front consists of a racial education of members that lasts six months, and the goal of establishing a community of 500 to a thousand acres of land, which would include indoctrination facilities."

Q. I'm assuming this was taken from a letter?

A. I believe so.

Q. Is [redacted] aware that he's mentioned in this file?

A. I'm not aware. I –

Q. To you knowledge.

A. I don't know. I believe we spoke with the STG coordinator in Texas, but I can't – I can't tell you exactly.

Q. To your knowledge, is [Putative Class Member #1] aware that this STG information sheet [47] exists?

A. If I remember correctly, I've – I've talked to him at some point. I don't know that I've interviewed him, but I – I think that even I've talked with him. I know that – if

I remember right, we had a couple conversations about this letter, because it was a relatively new group.

Q. So when you spoke with him and talked to him about the letter, was he made aware that this information sheet exists?

A. No, I don't – I don't believe so.

Q. Okay. Let's move to 26. Could you read the inmate's name.

A. Inmate name, [Putative Class Member #2]

Q. Okay. Could you read the prison location.

A. Ross Correctional Institution.

Q. What STG code is associated with [Putative Class Member #2]

A. White supremacist.

Q. Is this related to Asatru, to your knowledge?

A. This sheet?

* * *

[52] the street.

Q. You said that could encompass more than one organization. What are some – some different organizations that are encompassed within the white supremacist code?

A. They could be – it could have been Klan members or Klan associates, the Aryan Nation, Skinheads.

Q. Okay. What is [Putative Class Member #2's] rank?

A. They list him as a member.

Q. What is [Putative Class Member #2's] nickname?

A. [redacted]

Q. And I would ask for each question, but I'm just going to assume that if I were to ask how do you know each of these things, you're going to give me the same answer as – as the same reasons you knew for [Putative Class Member #1]. If there's anything different, could you interject that?

A. Sure.

Q. Okay. What is his level of participation?

A. Level 1.

[53] Q. And could you tell me again what Level 1 is.

A. Passive participation.

Q. Could you tell me what his level of identifiers are.

A. His level of identifiers are PA and PC.

Q. Could you list his associates.

A. We have no associates listed.

Q. Okay. So if there are no associates listed, does that mean you do not have knowledge of any other white supremacists in the same institution?

A. No.

Q. Okay. Why would there be no associates listed?

A. We weren't – we didn't identify any associates, whether it was because we – they weren't aware of them

when they filled out the profile, or didn't have that information.

Q. Okay. Could you list [Putative Class Member #2's] tattoo description.

A. Describes his tattoos as swastikas [54] and lightning bolts on both arms.

Q. And I believe those were both tattoos that we've already discussed the meaning of in Exhibit 25?

A. That's correct.

Q. Okay. Could you list the location of the tattoos.

A. It lists the location as right arm.

Q. Is there any significance in the location of the tattoos?

A. Not – not normally with these groups.

Q. Okay. When would it be significant?

A. With some of the street gangs it's significant in terms of which side they represent.

Q. Okay. If it comes up in this, would you point it out –

A. Point out the significance?

Q. Yes.

A. Yes.

Q. There's nothing under the notes section. Who decides if notes go in?

A. Phil Vermillion decides.

* * *

[57] beliefs, a great deal of overlap in their organizational membership, that it's not uncommon for an inmate to have membership association with multiple groups.

Q. Okay. To your knowledge, is [Putative Class Member #2] aware that this information sheet exists on him?

A. I don't know.

Q. Okay. Let's turn to No. 27, Exhibit 27. Could you read the name – the inmate's name.

A. Yes, [Putative Class Member #3].

Q. And where is he located?

A. Ross Correctional Institution.

MR. MARTI: For the record, I think [Putative Class Member #3] has been transferred since that form was generated.

MS. CONN: He's at Warren?

MR. MARTI: I believe so.

BY MS. CONN:

Q. Could you read the security threat group code related to [Putative Class Member #3].

A. Yes, Outlaws MC.

Q. To your knowledge, is that group, [58] related to Asatru?

MR. MARTI: Objection. Go ahead and answer.

A. I'm not aware of any direct tie with the Outlaws to Asatru.

Q. Could you list his rank.

A. Associate.

Q. Could you list his nickname.

A. [redacted]

Q. Could you list his level of participation.

A. Level – Level 1.

Q. Could you explain what associate means.

A. Associate –

Q. I'm sorry, let me clarify that.

His rank is associate. Could you clarify what that means.

A. That – as far as – as far as this goes, he may not – we don't have him identified necessarily as a full-fledged member.

Q. Okay. Could you list his level of identifiers.

[59] A. Yes, PA, PC, AB.

Q. So you have PC, he's self-proclaimed as affiliated with the Outlaws?

A. Correct.

Q. Could you list his tattoo descriptions.

A. 714, comma, spider, slash, left thumb and forefinger, comma, many others.

Q. Could you explain the significance of the tattoos described.

A. I'm not exactly sure on 714. I believe it's a reference to drugs. That's a common tattoo among One Percent Outlaw Bikers. The other ones I don't know how to describe.

Q. You don't know the significance of the others?

A. No, I don't.

Q. Okay. Could you read the location of the tattoos.

A. Tattoo location says left arm.

Q. Could you read the paragraph below notes.

A. Notes, associations, raised by [60] Outlaws, parentheses, Dayton, brother-in-law, [redacted], quotations, ABU, retired from Fugeros, cousin to [redacted], quotations, [redacted] All ranks held. Was president when killed. Was raised by [redacted]

Q. To your knowledge, is [Putative Class Member #3] aware that this information sheet was prepared?

A. Yes, primarily because that information was – if I remember correctly, was gathered from his own self-admission.

Q. But did he know when you gathered this information that it was for a security threat group information file?

MR. MARTI: Objection. Go ahead and answer if you know.

A. I'm not certain whether he was told or not.

Q. Okay. Let's go to No. 28. Could you read the inmate's name.

A. [Putative Class Member #4]

Q. Could you list his location.

A. Ohio State Penitentiary.

[61] Q. Could you list his STG code.

A. White supremacist.

Q. Could you list his rank.

A. Leader, question mark.

Q. Leader, question mark. Does that mean you don't know if he's the leader?

A. That's correct. There's suspicion to believe that he may be, but not necessarily confirmed.

Q. So there's no tangible evidence that he's the leader?

A. I – I can't tell you what evidence exactly.

Q. Could you list his nickname.

A. [redacted]

Q. Could you list his level of participation.

A. Level 3, disruptive.

Q. Could you list his level of identifiers.

A. AA, AB, AD, D1, D2, D3, D4.

Q. Could you list his associates.

A. Other heavy whites only.

Q. Could you explain what that means.

[62] A. Typically we put that down if he – he would be the type of individual that will only associate with individuals who are heavily involved with the white supremacists or Aryan Brotherhood.

Q. Could you list his tattoo description and location.

A. There are no tattoo descriptions, nor locations listed.

Q. Do you know why he received Level 3 participation?

A. Yes I do.

Q. Could you tell me.

A. He received it for sure – for one reason, from the fact that he killed Officer Davis in '92 at Mansfield.

Q. And could you tell me again what Level 3 meant.

A. Disruptive.

Q. Could you read the paragraph below notes.

A. Yes. It says inmate killed CO Davis in '92 at Mansfield. Incident believed to be Aryan Brotherhood related.

[63] Q. What was the ethnicity of Officer Davis?

A. He was black.

Q. To your knowledge, does inmate Slider know that this sheet exists on him?

MR. MARTI: Objection. Go ahead and answer if you know.

A. I'm not aware.

Q. Okay. Let's go to Exhibit 29. Could you read the inmate's name.

A. [Putative Class Member #5]

Q. And he's located where?

A. Ross Correctional Institution.

Q. Could you list the security threat group that he's associated with.

A. Iron Horsemen.

Q. To your knowledge, are the Iron Horsemen in any way related to Asatru?

MR. MARTI: Objection. Go ahead and answer if you know.

A. I'm not aware of any direct –

Q. What is his rank?

A. Vice-president.

Q. What is his nickname?

[64] A. There's no nickname listed.

Q. Level of participation?

A. Level 1, passive.

Q. Level of identifiers?

A. PA, PC.

Q. Could you list his tattoo description.

A. Large Iron Horseman tattoo across back, Iron Horse – Horseman, I think.

Q. Is there any significance to those tattoos?

A. Yes.

Q. Could you explain how.

A. Well, you don't put an Iron Horseman tattoo on your back unless you're an Iron Horseman.

Q. Can you tell me the location of the tattoos.

A. Back.

Q. Is there any significance to the location?

A. Bikers typically will put their tattoo, et cetera, across their back.

Q. So is the Iron Horsemen a biker – a [65] biker security threat group, biker gang?

A. It's a one percent biker – outlaw biker group.

Q. A what?

A. A One Percent.

Q. What does that mean?

A. One Percent is just how they identify themselves from the rest of the bikers.

Q. Okay. Could you read the paragraph below notes.

A. Notes, inmate stated he was the vice-president of Northern Kentucky Chapter of Iron Horsemen.

Q. Okay. Let's move to Exhibit 30. Could you read the inmate's name.

A. [Putative Class Member #6]

Q. Could you read the location.

A. Lebanon Correctional Institution.

Q. Could you tell us what security threat group he's associated with.

A. Odin Brotherhood.

Q. To your knowledge, is that related to Asatru?

[66] MR. MARTI: Objection. Go ahead answer.

A. I would tend to believe it is.

Q. To your knowledge, do you have – what are you basing that opinion on?

A. On – the first name of the group being Odin in reference to – to the Odinists.

Q. Is that the only thing you're basing your opinion on?

A. By looking at the sheet, I'm not – I don't know if the – of any other information about him other than what I'm looking at.

Q. Well, I'm not talking about [Putative Class Member #6] I'm talking about the Odin Brotherhood.

A. I don't know a great deal about the group.

Q. Okay. What is his rank?

A. Inner circle.

Q. What does that mean?

A. I don't know.

Q. What is his nickname?

[67] A. [redacted]

Q. What's his level of participation?

A. Level 1.

Q. Level of identifiers?

A. PA, PC.

Q. Who are his associates?

A. Associates list KKK, Confederate Knights of Kentucky, Aryan Brotherhood.

Q. What are his tattoo descriptions?

A. Description is Klansman, comma, chest; swastikas.

Q. Location?

A. States back.

Q. On this form, can you list more than one security threat group code – I know before you said you could only list one location of the tattoo. Can you list more than one STG code?

A. There's only one code that's listed for this inmate.

Q. Right. That's not what I'm asking.

Are you able to, in the computer, list more than one code?

A. No.

* * *

[69] Q. Could you read the name of the inmate.

A. [Putative Class Member #7]

Q. Could you list his location.

A. Ohio State Penitentiary.

Q. List his STG code.

A. White supremacist.

Q. His rank?

A. No rank listed.

Q. His nickname?

A. No nickname listed.

Q. Level of participation?

A. Level 3.

Q. Level of identifiers?

A. PA, PB, AA, AH, D1, D2.

Q. Associates?

A. [redacted]

Q. Tattoo description?

A. 100 Percent Raw Power. Right arm, Vikings.

Q. The significance of those tattoos?

A. The – I'm not sure about the 100 Percent Raw Power, and I can't tell from [70] this whether there's anything else with that, but the right arm with the Vikings – Vikings a lot of times are used by the white supremacists as a popular tattoo for them.

Q. Do you know why [Putative Class Member #7] has a Level 3 participation?

A. In his particular case, he was involved in a stabbing over this past summer.

Q. Did the stabbing – could you elaborate on the stabbing, the motivation behind the stabbing.

A. We believe it to be a power fight within the Aryon brotherhood at Lebanon this summer, as a result of the leader of the Aryan Brotherhood stabbing a – an inmate – a black inmate in the chow hall. Then [Putative Class Member #7] was involved later, I believe that week, with another inmate that we believe to be a power fight with the Aryan Brotherhood.

Q. Okay. Could you – could I just note that the tattoo location is on his chest. I don't remember if I asked that question.

[71] But under notes, could you read the paragraph under notes.

A. States, inmate also had various white supreme – or WHISU, just an abbreviation for white supremacist – books and property, would consider as AB associate.

Q. What's AB?

A. Aryan Brotherhood.

Q. Let's move on to No. 32. Could you list the inmate's name.

A. [Putative Class Member #8].

Q. And where he's located?

A. Warren Correctional Institution.

Q. Could you list his STG code.

A. Aryan Nations.

Q. To your knowledge, is the Aryan Nations related to Asatru?

MR. MARTI: Objection. Go ahead and answer.

A. Not – not that I'm aware of.

Q. I'm sorry?

A. Not that I'm aware of.

Q. Okay. Could you tell me [72] [Putative Class Member #8's] rank.

A. No rank listed.

Q. Could you tell me his nickname.

A. [redacted]

Q. Level of participation?

A. Level 1.

Q. Level of identifiers?

A. PA, PC.

Q. Associates?

A. [redacted]

Q. Tattoo descriptions?

A. Lightning bolts.

Q. Tattoo location?

A. Left wrist.

Q. I'd like to note there are no notes.

Could we go to No. 33. Could you please tell me the inmate that this form is in regards to.

A. [Putative Class Member #9].

Q. Could you tell me what this inmate – why he was in front of the Rules Infraction Board.

A. The ticket states, on the above [73] stated date and time it was discovered that [Putative Class Member #9] had drawn a Thor's hammer with signs of various white supremacist groups drawn in concert with the Thor's hammer. It was a direct violation of Administrative Code 5120-9-06, Section E-31, Paragraph C.

[Putative Class Member #9] is a self-admitted white supremacist and was advised by me that this type of behavior would not be tolerated.

Q. Okay. It says he's guilty of CII-31(E). Could you tell me exactly what that is.

A. That's Class II, 31 of 5120-9-06.

Q. Which is?

A. The Administrative Rule listing inmate – the code of conduct or rule violations, I guess, more specifically.

Q. What rule, specifically, did he violate?

A. Rule 31.

Q. Right. What does Rule 31 say?

MR. MARTI: Objection. Go ahead and [74] answer if you know.

A. Rule 31 says no inmate shall – basically no unauthorized group activity, as set forth by AR 5120-9-37, Paragraph B.

MR. MARTI: These ARs, or Administrative Regulations, are part of Ohio law, and if you're going to ask him questions about that, I'd ask that he be given a copy of that. I'm sure you have it in your law library. Is that – if you want to ask more questions, I'd ask that we do that.

MS. CONN: No.

BY MS. CONN:

Q. To your knowledge, is there an inmate information sheet on [Putative Class Members #9]?

A. I'm not aware. I don't know.

There's 46,500 inmates in our Department. I don't know whether we have a sheet on him or not. I would assume that we do.

MR. MARTI: We'll check. The reasons we didn't pull [Putative Class Member #9's] sheet is because he wasn't identified as a class [75] member. Do you want [Putative Class Member #9]?

MR. BRYSON: If we can go off the record.

(Discussion off the record.)

BY MS. CONN:

Q. We were discussing Exhibit 33. Why is this document something that would pertain to Asatru?

A. Because it had a known Asatru symbol up with the swastika, being a known white supremacist symbol.

Q. Okay. So the Thor's hammer was the Asatru symbol, and the swastika was the gang symbol?

A. Yes.

Q. Do you know what the symbol represents? Not the swastika, the Thor's hammer.

A. I – I know it – I guess a bit of history, that it – it was a Viking symbol of some sort.

Q. Okay. Who has access to the information in these STG inmate information files in the computer?

* * *

[82] threaten the safety of correctional facilities.

I guess, have you ever been present when an incident has occurred that has threatened the safety of inmates or correctional staff?

MR. MARTI: I don't mean to be difficult, but there are about four or five questions in there. Could you break them out and ask them individually.

MR. BRYSON: Sure.

BY MR. BRYSON:

Q. Let me put it this way: Could you please mention any personal experiences you have to support your conclusion in Paragraph 3 of your affidavit.

A. Well, I guess one of the – the biggest experiences I have is the Lucasville – SOCF riot on April 11th, 1993, wherein a group of inmates – actually three different security threat groups were involved in a riot which took the lives of, I believe, nine inmates and one staff member, cost the State roughly $63 million.

[83] Q. And were you present during that – the riot?

A. I worked out of actually our headquarters during the riot, and then I worked at Lucasville – I was assigned to the committee to Lucasville for approximately three or four months afterwards.

Q. You said there were three STGs involved in the incident?

A. That's correct.

Q. Could you please tell us what those STGs were.

A. The Aryan brotherhood, Gangster Disciples, and the group identified as Hanafi Ulam of South Africa.

Q. Is that the same group you mentioned in Paragraph 4 of the affidavit?

The last one, the Hanafi –

A. That's correct. That's correct.

Q. Now, to your knowledge, were any members of the Asatru or any followers of the Asatru faith involved in

the uprising at the Southern Ohio Correctional Facility that [84] you just mentioned?

MR. MARTI: Objection. Go ahead and answer.

A. I don't recall. There was – there were 700 inmates –

Q. Okay.

A. – in that block that day.

Q. Besides this incident at the Southern Ohio Correctional Facility, have there been any other incidents in Ohio prisons that you know of that have involved security threat groups, as far as – yeah, let me rephrase that. I understand –

MR. MARTI: We'll be here for quite a while.

BY MR. BRYSON:

Q. Could you please describe any other personal experience you have in Ohio prisons in which security threat groups have posed a significant threat to a correctional facility.

A. Yeah, I can. I'm not exactly sure where to start. I've investigated escapes at Lebanon that Elam and Michaels escaped [85] from Lebanon assisted by the Aryan Brotherhood. There was an escape, Saffell and Turner escaped from Madison Correctional. Turner, aided by the Aryan Brotherhood.

We had a murder at Madison that six inmates were charged, found guilty criminally for killing Damico Watkins, as an Aryan brotherhood hit –

Q. Suffice it to say, you have a lot of experience, then, dealing with STGs and specifically causing incidents at prisons?

A. Yes.

Q. And those are just a – several of the many experiences you've had?

A. Correct.

Q. So in your experience, have you ever run into an experience in which someone you knew who was a follower of Asatru was engaged in such activity?

A. Yes. We were talking about some of these individuals earlier during your questions. One in particular being – being [redacted]. In fact, following his – [86] following his assault and the death of Officer Davis, he was – he was involved with attempts to smuggle a zip gun into Lucasville prison, smuggling bullets into Lucasville prison.

Additionally, another individual that was identified as being – identifying himself as – as being a follower of Asatru was [Putative Class Member #7] who was involved in a stabbing this past summer at Lebanon.

Q. To your knowledge, were those followers of Asatru at the time these incidents occurred, or did they become followers of Asatru after the incidents?

MR. MARTI: Objection. Go ahead and answer.

A. [redacted], I think, it was somewhat at the same time. I don't know – I don't have information of him being involved with Asatru at the time that he stabbed Officer Davis.

Q. Okay.

A. But I do know of him being – identifying himself and, in fact, requesting

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[13] cells of groups that had been involved in the killing of Alan Berg in Denver, the Jewish talk show host, to the organized robberies of armored cars up in the Washington area, to the ties of Timothy McVeigh and his exploits, of course, the bombing of the Oklahoma City building, and the ties with him across the country as he made his travels around the – around the U.S.

Q Let me ask you about a couple of those things. The Alan Berg matter, what groups were involved with that?

A Well, I'm going – going back in the memory here.

Q Okay.

A It was – I'm trying to – the Bruder Schweigen, again, I believe, was the group involved, from my best recollection.

Q And who was involved with the bank robberies out in the northwest?

A That was a guy – the primary leader was a guy by the name of – I think Robert Matthews was the primary leader.

[14] Q Was that the Order organization?

A Yes.

Q Have you seen similar criminal activity here in Ohio from white supremacist groups?

A In fact, talking about the bank robberies, almost an exact replica of that was an incident that took place up in the northern part of Ohio involving two brothers and a couple of associates, brothers by the name of Luther that robbed several banks up in northern Ohio.

One of the brothers went through the Aryan Nation headquarters in Hayden Lake, and even today – we've got them now in our prison systems, and there's $30,000 which I believe has never been recovered in that incident.

Other incidents involving those white supremacist groups in Ohio, the Kehoe brothers involved in the shoot-out in Wilmington, Chevy and Shane Kehoe.

That incident happened to take place a day prior to the Aryan Nation and several

* * *

[16] of the foremost white supremacist groups today, you know, in the United States. William Pierce being their leader, Cleveland being one of their key headquarters today. In fact, that's where he has based his record label out of, Cleveland Ohio.

Q I'm sorry, who's the fellow that's –

A William Pierce.

Q Is he the fellow that wrote the Turner Diaries?

A Yes, he is. He also wrote a book called The Hunter.

Q How does Ohio rank in terms of prevalence of white supremacists? How does it compare to activity in other states?

A It's – by most accounts, it's one of the – the lead states in the United Stats in white supremacist activity.

Q Okay.

A Not – not only being ranked by myself in looking at and talking to other states, but as such by the – by the Southern Poverty Law Center, and some other [17] organizations.

Q Who is – what is the Southern Poverty Law Center?

A The Southern Poverty Law Center is a group that was started by – by Morris Dees. They're a group that basically started keeping track of different supremacy groups, whether they be white supremacy or black supremacy, or other groups that exist around the country. And they keep – keep a great deal of information and intelligence on those groups across the U.S.

Q How do law enforcement officials view the quality of their work?

A They're perceived as being very accurate.

Q Now, you mentioned a number of Different groups; Aryan Nation, Aryan Brotherhood, the Order, the National Alliance. Could you describe how these groups interact, if at all.

A There's a lot of interaction between the groups. If you go back into the history of some of the groups and you look at, you

* * *

[27] they want to cell with their own gang, so they used that to manipulate the system to benefit their organization. And, you know, we've seen the Christian Identities – it's been around, but I've been there eight years and started seeing it then.

What's happened, though, is we've Seen it kind of change. You know, as we become more – more aware – when it started, when there was no training going on about, you know, the Christian Identity movement or the use of Christian Identity by the gangs, et cetera.

As we've trained on those things, they've changed their – you know, their agenda and changed. They go about, you know, circumventing the system, and that's where we've seen in the last several years the change to the Asatru in order to show their group within the prison.

Q Okay. Who's David Lane?

A David Lane an individual that is in federal prison. He is an individual that, through his contacts on the street today, [28] runs the 14 Word Press, which is a web site and also a publication.

David Lane, I can't tell you exactly what his crime was, but he was involved in a series of racially motivated crimes on the street.

Q Could you describe what background he had in Christian Identity.

A It's my understanding prior to him Coming into prison, he was involved with the Christian Identity movement and several different organizations, like similar to similar to Timothy McVeigh, and those – it cut across

several different groups, depending on who would support them or who would hide them out, et cetera, and was involved in that prior to – to going into Federal prison.

Q Do you know, has his religious – Espoused religious beliefs changed over time.

A Today he's – today he's one of the individuals that they see as being one of the more leading figures in the Asatru [29] movement.

Q Okay.

MR. MARTI: Off the record.

(Pause in proceedings.)

(Deposition Exhibit 37 marked.)

BY MR. MARTI:

Q Mr. Meyer, I'm handing you what's been marked as Deposition Exhibit 37. Could you identify that, please.

A Yeah, I believe it's a picture of David Lane.

Q Okay. The thing he's wearing around his neck, what is that?

A That's the Thor's hammer.

MR. MARTI: I should have marked these while we were off. Could you do those.

(Deposition Exhibits 38 and 39 marked.)

MR. MARTI: It's 1291 through –

MR. BRYSON: Yeah, it's this.

* * *

[45] alphabet that stands for "Heil Hitler."

Q So HH repeated – I think H is the eighth letter, correct?

A Yes.

Q It's been a long time since kindergarten.

A Correct.

Q How would you describe the sophistication of white supremacist gangs in the prison population as opposed to other gangs?

A Typically much more sophisticated. You know, when we look at our statistics on white supremacists, and like the Aryan Brotherhood, what we have found is that, you know, their average age is much greater than any other gang, as a whole. You're looking at the average age somewhere around 38 years old.

On the average, they've served, you know, 12 to 14 years in prison, as opposed to much less – much lesser sentences as an aggregate of other gangs.

So what we find is that these – [46] these individuals are predominantly older inmates, that they've served more time in prison, that they're much more savvy in how they go about their business within – within the population, within prison. Because they know – they know how to play – play the system and – and use the system for their benefit.

Q Do they cause DRC more problems in detecting their activities than other gangs?

A Typically, yes. We've seen a real change amongst them where in the past they were much more blatant about their tattoos and self-admission and those things, where today we find a great many of them covering up their tattoos, not getting their tattoos. So it makes it much more difficult for us to identify them.

Q Okay. Now, overall, does DR – we've gone through all these files, and you were asked about them before and your general tracking system for gangs. Do you feel that DRC has identified all the inmates in its custody that are involved in gang

* * *

[60] A [Putative Class Member #10]

Q And what's the security threat group that he's been associated with?

A It lists two. Aryan Brotherhood, slash, Skinhead.

Q Is there anything on this document that shows what religion [Putative Class Member #10] is?

A No, I don't believe so.

Q To your knowledge, is this security threat group related to Asatru in any way?

A Is the Aryan Brotherhood related to Asatru?

Q Asatru.

A Well, yeah, we believe there are a number of their members that are claiming to be – that are identified Aryan Brotherhood members that are claiming to be Asatru.

Q Are – okay. Can we look at No. 41.

Oh, actually, can I ask you one more question. You said that there are members of the Aryan Brotherhood who are claiming to be Asatru. Do you know who?

A Well, I don't know if I know them all specifically, but there's members that

* * *

[63] MR. MARTI: Okay.

BY MS. CONN:

Q Could you tell me who this inmate is.

A [Putative Class Member #11]

Q And what's his security threat group that he's related to?

A White supremacist.

Q Okay. Can you move to Exhibit 43.

Could you tell me who this inmate is.

A [Putative Class Member #12]

Q And could you [sic] me what security threat group he's associated with.

A White supremacist.

Q Okay. Next exhibit, can you tell me Who this inmate is.

A [Putative Class Member #13]

Q And can you tell me what security threat group he's related to.

A Aryan Brotherhood.

Q Let's move to the next exhibit.

MS. CONN: Is that 45?

[64] MR. MARTI: 45.

BY MS.CONN:

Q Can you tell me who this inmate is.

A [Putative Class Member #14]

Q And can you tell me what security threat group he's related to.

A Pagan's Motorcycle Club.

Q And, to your knowledge, are the Pagan's Motorcycle Club related to Asatru in any way?

A I'm not aware.

Q Okay. Let's move to the next exhibit.

Can you tell me the inmate's name.

A [Putative Class Member #15]

Q Can you tell me the security threat group he's associated with.

A White supremacist.

Q Move to the next exhibit.

MR. MARTI: Excuse me. Let me just catch up here.

Okay. I'm sorry, go ahead.

BY MS. CONN:

Q Exhibit 49?

[65] A 47.

Q 47. Can you tell me this inmate's name.

A [Putative Class Member #16]

Q And can you tell me what security threat group he's related to.

A KKK.

Q Let's go to Exhibit 48.

Can you read the inmate's name.

A [Putative Class Member #17]

Q And what security threat group is he associated with?

A Aryan Nations.

Q Exhibit 49. What inmate – what's the inmate's name?

A [Putative Class Member #18]

Q And what security threat group is he associated with?

A White supremacist.

Q And Exhibit 50, what's the inmate's name?

A [Putative Class Member #19]

Q And what security threat group is he associated with?

[66] A Aryan Brotherhood.

Q Okay. In Exhibits 41 through 50, is there any place on this sheet that lets you know what religion these – any of these inmates are?

A Well, yes. The one I believe that – the Aryan Nation I believe to be a Christian Identity.

Q Which number?

A Exhibit 48.

Q Where – where do you see – can you point that out to me.

A Well, it says STG code is Aryan Nation.

Q Right. But does it – I guess what I'm asking is, is there anywhere on this sheet that asks what religion this inmate is?

A No, there's not.

Q Okay. You were talking earlier about how sometimes gang members try to cover their gang activity by using religion. And you said that they can – they have, in the past, requested to be celled together as

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[102] is a leader of the Asatru religion?

A Primarily because of the Publications that – that you read, et cetera, referencing him.

Q Which publications would those be?

MR. MARTI: Hold on a second now. Let's go off the record for a second.

(Discussion off the record.)

BY MS. CONN:

Q So the basis of your opinion that David Lane is the leader of the Asatru religion is in the documents that have been turned over by the Attorney General to the Plaintiffs?

A Yes.

Q Entirely? Are there any outside sources that are not in the materials?

A No, other than I would say that in talking to – interviewing people, or, you know, in general – general trainings, et cetera, you know, his name is one that comes up both by inmates and by – by, you know, staff or – or investigators other places as being one of the, you know, key people.

[103] Q Do you know where he's incarcerated? I know the federal system, but where?

A I – I don't know. I mean, I believe at one time he was at U.S.P. Marion, but I'm not sure where he is today.

Q Okay. That's not Marion, Ohio, is it?

A Marion, Illinois.

Q Okay. Now, you also testified Earlier today that white supremacists tend to be more sophisticated, they tend to be older. Do you keep statistics on the average age or the average time of incarceration of different members of STGs?

A We have recently, and done some on some individual groups. The statistics I'm referring to are ones that I put together, I believe, after the Lucasville riots in '93 or '94.

Q And could you please briefly describe those statistics.

A Basically what we did was looked at the average age of individuals who are identified within those groups, their

* * *

[105] Q So the fact that you said the white supremacists are more sophisticated and more organized doesn't make them any more of a threat than, say, the Hanafi Muslims – sorry, not the Hanafi Muslims, but the Outlaw Biker gangs, or the Crypts, or the Bloods?

A Well, you know, I said we consider them all – we consider them all potentially a threat to the security.

Now, you know, we've had – we have probably had more problems with groups like the Aryan Brotherhood than we have with any other gang that we have in our prison population.

Q Do you know what the average age for Hanafi Muslims is?

Was that – since they were involved in the Lucasville riot, did you do the analysis – the statistical analysis on the Hanafi Muslims?

A I did, and I don't know if I can recall offhand – I can't recall offhand what – what the average age was.

* * *

[114] MR. MARTI: I have a couple follow-up questions based upon what we just went over. Before we do, let's go off the record for a second.

(Discussion off the record.)

(Deposition Exhibits 51 and 52 marked.)

EXAMINATION
BY MR. MARTI:

Q Mr. Meyer, I'm handing you what's been marked as Exhibit 51. Can you take a moment and look that over for me, please.

A Okay.

Q Can you identify that document for me, please.

A It's titled "Odinism," by Wodensson, parentheses, David Lane.

Q Is that the David Lane we were talking about before?

A I believe so, yes.

Q Let me refer your attention up to the upper right-hand corner. There seems to be an internet address. Could you read that [115] for me, please.

A Yeah, HTTP, colon, slash, slash, WWW, dot, death to ZOG, dot, com, slash, the, slash, order, slash, lane, slash, Odinism, period, HTML.

Q Okay. Let me go over some of the elements in there and see if you can explain to us what they are.

What does death to – first of all, what is ZOG?

A ZOG is Zionist Occupied Government.

Q What does that generally refer to?

A That is a common reference by white supremacist groups of Jewish – Jewish-run government, basically, and that all government is run by – by Jewish people.

Q Is that – you mean basically their view is that all government is under Jewish domination?

A Correct.

Q And, so, I take it death to ZOG means –

A Death to Jewish people.

Q Okay. The Order – now, we [116] discussed The Order before. Are we referring to the same entity here, or is there any relation you're aware of?

A I believe it to be the same The Order that Lane was a part of when he was part of that criminal organization on the street.

Q He was part of The Order when he was on the street?

A I believe so, yes.

Q Now, is this one of the documents you referred to as having – giving you further evidence of a link between Odinism and white supremacists?

A Yes, it is.

Q Okay. Handing you what's been marked as Exhibit 52, would you take a moment and look that over for me, please.

(Pause in proceedings.)

THE WITNESS: Okay.

BY MR. MARTI:

Q Now, I notice on the first – the caption or the title of the document says "14 Word Press." Do those words mean [117] anything to you?

A The 14 Words I spoke of earlier, Referring to, "We Must Secure An Existence For Our People And A Future For White Children."

Q Are you familiar with an organization that goes by 14 Word Press?

A Yes, I am.

Q Could you describe it for us, please.

A Well, previously it was always in – in a published form that we received into the institution, but it's my understanding that 14 Word Press is put out by – by associates of David Lane, you know, through his people on the street. Obviously he can't put it out, but will write for the publications.

Q So there's an affiliation between David Lane and the 14 Word Press?

A I believe so, yes.

Q Okay. I'd like to direct your attention to Exhibit 47. Take a moment and look that over for me, please. [118] Are you familiar with that document?

A Yes, I am.

Q Okay. I notice – it seems to be – you testified earlier it's a gang profile – STG profile on [Putative Class Member #16] and I notice it says rank in STG, enforcer. Could you explain what that means.

A Typically an enforcer is – is someone within the group that's required to enforce the rules of the organization. And that if somebody gets out of line within the organization or that they – they're the ones that enforce the discipline on them.

They're usually the ones, also, that keep weapons, et cetera, for the group, or are responsible for making weapons for the group.

Q How do they go about enforcing the rules?

A They – typically, there's some type of reprisal for breaking rules. I mean, whether it be, you know, small things such as maybe a monetary fine, to assaulting them, or even in some cases, you know, [119] murdering them for breaking the – the bylaws, constitution of the group.

Q Okay. So it can include violence?

A Yes.

Q Okay. I'd like to direct your attention to Exhibit No. 48, which is an STG profile on [Putative Class Member #17] And I notice it says rank in STG, prophet. Could you explain what that means.

A Prophet is one who would be responsible for educating and teaching, most likely recruiting new people into the group.

They – the Aryan Nation, in his particular case – are a group that does a great deal of recruiting of younger

people, getting them to read certain materials, bringing them to the service or meetings, et cetera.

MR. MARTI: Let's go off the record for a second.

(Discussion off the record.)

MR. MARTI: Let me – let's go back on the record, and I'll state something and see if I've accurately summarized the [120] understanding between counsel.

Documents numbered 5470 through 5946 are the STG files on certain of the class members, or all the class members that we're aware of that have STG files.

Before the deposition started, we indicated that we would make all of those documents, which are rather voluminous, one exhibit, but that they wouldn't be kept with the other exhibits for the time being, although they would if the deposition is printed out.

Is that an accurate summary of our understanding?

MS. DOYLE: I think it is. And I just want to add that some of those documents we have previously referred to, I believe, in this deposition today, and in the preceding session we had by other exhibit names. So just for clarification, there may be some overlap.

(Deposition Exhibit 53 marked.)

[121] MR. MARTI: Fair enough. So then we agree that Exhibit 53 constitutes the STG files, documents 5470 through 5946?

MS. DOYLE: Yes.

BY MR. MARTI:

Q Mr. Meyer, I'd like to refer you to document 5470, which is part of the group we just talked about. Would you take a moment and review that for me, please.

(Pause in proceedings.)

THE WITNESS: Okay.

MS. CONN: Who is that?

MR. MARTI: I'm sorry, 5470.

MS. CONN: Who is that?

MR. MARTI: Oh, McGuire.

MS. CONN: Thanks.

BY MR. MARTI:

Q Can you identify it for me.

A Yeah, it's a printout on inmate [Putative Class Member #20]

Q I notice it says rank in STG, LT. What does that mean?

A It stands for lieutenant.

Q Can you describe what a lieutenant [122] in an Aryan Brotherhood is.

A Typically a lieutenant in the Aryan Brotherhood is responsible for a group of the prison, reports to the captain, and the captain is – there's usually only one captain at the prison. It could be more, depending on the compound.

The lieutenant is primarily responsible for an area or section of that organization. So a leader.

Q Okay.

A One of the leaders.

Q Now, I notice it says participation Level 3. What does that mean?

A Three stands for disruptive participation.

Q Okay. I'd like to refer you to 5476, the STG file for [Putative Class Member #6]. And it says rank in STG, innercircle. Do you know what that means?

A No, honestly, I'm not aware.

Q Okay. Fair enough.

I'd like to refer you to 5484, which is the STG profile on [Putative Class Member #4]. It says [123] rank in STG, leader, question mark. What does that mean?

A He is – he is considered to be a leader, and somebody that they look up to because of his – his murder of Officer Davis. And he would be considered a hero, I guess, in some circles, I guess, because of his willingness to commit that act.

Q Now, what race was Officer Davis?

A He was black.

Q I notice it says participation Level 3, what does that mean?

A Disruptive.

Q Okay. 5486, [Putative Class Member #19]. I notice it's a gang profile on [Putative Class Member #19], and it says participation Level 3.

A Correct.

Q Does that mean he's disruptive?

A Correct.

Q Do you recall what the nature – what – why he was classified as disruptive?

A If I remember correct – I'm going from memory – he was involved in an assault [124] of [redacted] at Mansfield. And if I remember correctly, it was – it was a matter of [redacted] was not following the rules, and [Putative Class Member #19] – [Putative Class Member #19] was responsible to – to basically check him and put him in his place for not following the rules of the organization.

Q When did that occur?

A '96, '97. I'm not exactly certain.

Q Okay. Okay. I'm referring you to 5490, the profile on [Putative Class Member #3]. It says rank in STG, associate. What does that mean?

A As far as we can tell, he's – he may not be a full-fledged member of the Outlaws, but is an associate of them, known to – known to hang with them.

MR. BRYSON: May – I'm sorry, there are two class members whose last names are [Putative Class Member #3].

MR. MARTI: I'm sorry. [redacted].

A Our intelligence shows that we don't – aren't certain whether he's a member or –

[125] Q Okay.

A – or just . . .

Q Okay. 5492, the profile on [Putative Class Member #5], it says rank in STG, vice-president. Could you explain what that means.

A The Iron Horsemen is a motorcycle club. Vice-president would be the number two person within that club on the street.

Q Okay. And what kind of duties would that type of person normally have?

A Depending on the clubs, on who – what Rank holds what, but probably planning rides, acting as the leader in the absence of the president, et cetera.

(Mr. Bryson left the deposition.)

Q Okay. Now, referring you to 5498, profile on [Putative Class Member #8], it says rank in STG, priest. What would that mean?

A Priest would most likely be a teacher, probably somebody that's had some experience within the group, could even be a leader of their particular Aryan Nation set.

Q What kind of duties would that type [126] of person have within the group?

A Leadership – leadership position. I mean, organizing meetings, holding services, et cetera, for the Aryan Nation.

Q Okay. Now, I actually should have asked you this earlier. Throughout this deposition and the earlier deposition – the earlier part of this deposition, in February, the term shakedown has come up. What does that mean?

A A shakedown is a process of going into an area, a cell – there's many different kinds of shakedowns, but predominantly it's searching – thoroughly searching an individual or property looking for contraband or, you know, major or minor contraband, either on an individual or in – in an area.

Q Okay. Are – are all inmates subject to shakedowns, whether they're STG affiliated or not?

A Yes.

Q And shakedown doesn't mean what it sometimes means in the vernacular. It's not

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

John Miller, et al., Plaintiffs,	Case No. C2-98-275
v.	Judge Sargus
Reginald Wilkinson, et al., Defendants.	Magistrate Judge Kemp
	CLASS ACTION

STIPULATION OF PARTIES

(Filed May 3, 2000)

The Parties hereby stipulate that, for the purposes of the above-captioned lawsuit only, the ancient Nordic religion of Asatrú and related sects of Asatrú are an authentic and genuine religion. Accordingly, neither Party will present evidence in this case as to genuineness or lack of genuineness of the Asatrú religion.

Respectfully submitted,

/s/ [Illegible]
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